

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

168th and DODGE, L.P., a Nebraska,)
Limited Partnership f/k/a BROWN)
INVESTMENT PARTNERSHIP, LTD., and)
RED DEVELOPMENT OF WEST DODGE,)
LLC, a Missouri Limited Liability Company,)
)
)
Plaintiffs,)
)
vs.)
)
RAVE REVIEWS CINEMAS, LLC,)
a Texas Limited Liability Corporation,)
)
Defendant.)

INDEX OF EVIDENCE

COMES NOW the Plaintiffs, and submit the following evidence in support of their Motion to Compel:

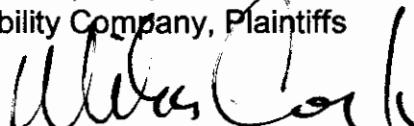
- Exhibit 1 Affidavit of Timothy J. Thalken,
- Exhibit 2 Rule 45 Subpoena,
- Exhibit 3 July 28, 2004, Letter from Boston Ventures' legal counsel to Plaintiff's counsel,
- Exhibit 4 August 3, 2004, Letter from Boston Ventures to Plaintiff's counsel,
- Exhibit 5 August 11, 2004, Letter from Plaintiff's counsel to Boston Ventures' counsel,
- Exhibit 6 August 18, 2004, Letter from Boston Ventures' counsel to Plaintiff's counsel,
- Exhibit 7 May 31, 2005 Subpoena Duces Tecum,
- Exhibit 8 June 10, 2005 Letter,
- Exhibit 9 June 29, 2005 Letter, and

Exhibit 10 Deposition Transcript of Elizabeth Granville-Smith (Boston Ventures
30(b)(6) deponent).

Exhibit 11 Portions of Deposition Transcript of Scott Rehorn

168th and DODGE, L.P., a Nebraska
Limited Partnership f/k/a BROWN
INVESTMENT PARTNERSHIP, LTD,
and RED DEVELOPMENT OF WEST
DODGE, LLC, a Missouri Limited
Liability Company, Plaintiffs

BY:


Michael F. Coyle, #18299
FRASER, STRYKER, MEUSEY, OLSON,
BOYER & BLOCH, P.C.
500 Energy Plaza
409 South 17th Street
Omaha, Nebraska 68102
(402) 341-6000
ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2005, I served the foregoing on the following individuals via regular United States Mail:

Edward G. Warin
McGrath, North, Mullin & Kratz, PC LLO
First National Tower, Suite 3700
1601 Dodge Street
Omaha, NE 68102

Lynn S. McCreary
Jennifer A. Donnelly
Bryan Cave, LLP
1200 Main Street, Suite 3500
Kansas City, MO 64105-2100

Kathleen Burdette Shields
Choate, Hall & Stewart
Exchange Place
53 State Street
Boston, MA 02109-2804
Attorneys for Boston Ventures Management, Inc.

AO 88 (Rev. 11/91) Subpoena in a Civil Case

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MASSACHUSETTS

168TH AND DODGE, LP, a Nebraska Limited Partnership, f/k/a BROWN INVESTMENT PARTNERSHIP, LTD., and RED DEVELOPMENT OF WEST DODGE, LLC, a Missouri Limited Liability Company,

SUBPOENA IN A CIVIL CASE

CASE NUMBER: 8:03CV171

Filed in United States District Court for the District of Nebraska

v.

RAVE REVIEW CINEMAS, LLC, a Texas Limited Liability Corporation.

TO: **Boston Ventures Management, Inc.**
One Federal Street, 23rd Floor
Boston, Massachusetts 02110-2003

YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
---------------------	---------------

X YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

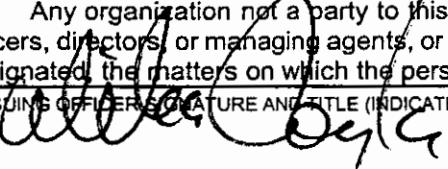
See attached Subpoena Rider

PLACE Attn: Jennifer Goguen Apex Reporting 327 Summer Street, First Floor Boston, MA 02210	DATE AND TIME Wednesday, August 4, 2004 at 9:00 a.m. EST
--	--

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
----------	---------------

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
 Michael F. Coyle	July 12, 2004

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER Michael F. Coyle	Fraser, Stryker, Meusey, Olson, Boyer & Bloch, P.C. 500 Energy Plaza, 409 S. 17th Street Omaha, NE 68102-2613; (402) 341-6000
---	---

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

EXHIBIT

PROOF OF SERVICE

SERVED	DATE	PLACE
SERVED ON (PRINT NAME)	MANNER OF SERVICE	
SERVED BY (PRINT NAME)	TITLE	

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D:**(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 10 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

SUBPOENA RIDER

1. Produce all correspondence, whether in electronic format or otherwise, between Rave Reviews Cinemas, L.L.C., including its agents and employees, and Boston Ventures Management, Inc., including its parents, subsidiaries, agents and employees, regarding the Village Pointe Shopping Center project in Omaha, Nebraska.
2. Produce all documents, whether in electronic format or otherwise, between Rave Reviews Cinemas, L.L.C., including its agents and employees, and Boston Ventures Management, Inc., including its parents, subsidiaries, agents and employees, regarding building and/or operating a movie theater in Omaha, Nebraska.
3. Produce all market studies, reports, memoranda or other documents that refer to building or operating movie theaters in Omaha, Nebraska or the greater Omaha area.
4. Produce all documents relating to Boston Ventures Management, Inc.'s financing of or investment in, Rave Reviews Cinemas, L.L.C.
5. Produce all documents, including correspondence, between Rave Reviews Cinemas, L.L.C., its agents or employees, and Boston Ventures Management, Inc., its agents or employees, regarding the lawsuit entitled: "168th and DODGE, LP, a Nebraska Limited Partnership f/k/a BROWN INVESTMENT PARTNERSHIP, LTD., and RED DEVELOPMENT OF WEST DODGE, LLC, a Missouri Limited Liability Company v. Rave Reviews Cinemas, L.L.C." in the United States District Court for the District of Nebraska, Case No. 8:03CV171

JENNIFER A. BRENNAN
DIRECT DIAL: (617) 248-5005
EMAIL: JBRENNAN@CHOATE.COM

CHOATE, HALL & STEWART
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
EXCHANGE PLACE
53 STATE STREET
BOSTON, MASSACHUSETTS 02109-2804
TELEPHONE (617) 248-5000 • FAX (617) 248-4000
WWW.CHOATE.COM

AUG 2 - 2004

July 28, 2004

VIA FACSIMILE AND REGULAR MAIL

Michael F. Coyle
Fraser, Stryker, Meussey, Olson, Boyer & Bloch, P.C.
500 Energy Plaza
409 S. 17th Street
Omaha, NE 68102-2613

RE: 168th and Dodge, LP v. Rave Review Cinemas, LLC
United States District Court (D. Neb.) Case No.: 8:03CV171

Dear Mr. Coyle:

This firm represents Boston Ventures Management, Inc. ("Boston Ventures"), the recipient of a third-party subpoena (the "Subpoena") issued by your office in the above-captioned litigation. Boston Ventures hereby objects, pursuant to Fed. R. Civ. P. 45(c)(2)(B), to the inspection or copying of the materials designated in the Subpoena as follows:

1. Boston Ventures objects to the Subpoena insofar as it assumes the existence of the documents requested. Boston Ventures' objections to any of the requests shall not constitute a representation that any such documents exist.
2. Boston Ventures objects to the Subpoena to the extent that it seeks materials protected by the attorney-client privilege and/or the attorney work-product doctrine. Boston Ventures further objects to the Subpoena to the extent that it calls for the production of materials that are confidential, proprietary or contain or constitute trade secrets.
3. Boston Ventures objects to each specific request for the production of documents contained in the Subpoena to the extent that they are overly broad, unduly burdensome, and so vague and indefinite as to fail to identify those documents being sought with sufficient specificity to enable Boston Ventures to ascertain which documents are responsive to the request.
4. Boston Ventures objects to the Subpoena insofar as it seeks documents that are neither relevant to the subject matter of the Litigation nor reasonably calculated to lead to the discovery of admissible evidence.

Michael F. Coyle
July 28, 2004
Page 2

5. Boston Ventures objects to the Subpoena to the extent it is not narrowly tailored so as to avoid imposing undue burden or expense on Boston Ventures as required by Fed. R. Civ. P. 45(c)(1).

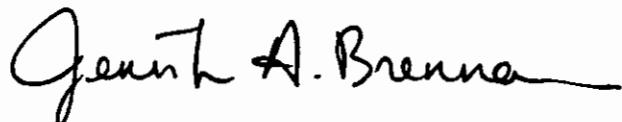
6. Boston Ventures objects to the Subpoena on the ground that it fails to provide Boston Ventures with sufficient time to investigate, gather, review and, if appropriate, produce the materials reasonably called for in the Subpoena.

Subject to and without waiving its objections, Boston Ventures will produce all non-privileged documents in its possession, custody, or control which are reasonably responsive to request numbers one, two, three and five. For the reasons stated above, Boston Ventures objects to the Subpoena and declines to produce any documents in response to request number four.

For your convenience, Boston Ventures will make its production directly to you at your Omaha, Nebraska address on or before August 4, 2004.

Please do not hesitate to call me if you have any questions or would like to discuss this matter.

Sincerely,



Jennifer A. Brennan

cc: Mark D. Cahill, Esq.

CHOATE, HALL & STEWART
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
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WWW.CHOATE.COM

AUG - 4 2004

August 3, 2004

VIA OVERNIGHT MAIL

Michael F. Coyle
Fraser, Stryker, Meusey, Olson, Boyer & Bloch, P.C.
500 Energy Plaza
409 S. 17th Street
Omaha, NE 68102-2613

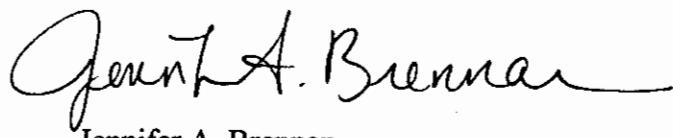
RE: 168th and Dodge, LP v. Rave Review Cinemas, LLC
United States District Court (D. Neb.) Case No.: 8:03CV171

Dear Mr. Coyle:

As you are aware, this firm represents Boston Ventures Management, Inc. ("Boston Ventures"), the recipient of a third-party subpoena (the "Subpoena") issued by your office in the above-captioned litigation. Subject to and without waiving the objections set forth in my letter dated July 28, 2004, Boston Ventures hereby produces documents labeled BV 001-002, in response to the Subpoena. Boston Ventures has reviewed its files and determined that it possesses no additional documents reasonably responsive to the Subpoena.

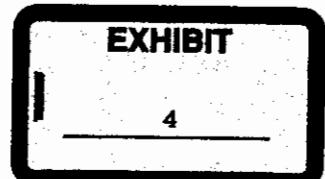
I believe that this fulfills Boston Ventures obligations with respect to the Subpoena. Please call me if you disagree with this position.

Sincerely,



Jennifer A. Brennan

cc: Mark D. Cahill, Esq. (w/encl.)



**RAVE REVIEWS CINEMAS, LLC
BOARD OF MANAGERS MEETING
AGENDA
SEPTEMBER 11, 2002**

	<u>Est. Time</u>
1. Financial Update (July final and August flash)	45 min 1-1:30
○ Theater results vs budget <ul style="list-style-type: none"> - Attendance - Market share and growth - Operating results (TCF) - Film costs 	
○ Consolidated results vs budget	
2. Theater Operations Review	45 min 1:30 - 2:00
○ Box office and concession per caps	
○ Marketing	
3. Real Estate Review	45 min 2:00 - 3:00
○ Status of existing markets <ul style="list-style-type: none"> - Surrounding mass - New developments 	
○ Comparison of existing markets to future builds	
○ New market opportunities and pipeline	
○ Timetables - 2003 <ul style="list-style-type: none"> - Chattanooga (?), Baton Rouge, Cincinnati, Melbourne, Destin, Syracuse and Patton Creek (?) 	
○ Overview - 2004 <ul style="list-style-type: none"> - Austin, Omaha and Patton Creek (?) 	
4. Operating Outlook for the Balance of 2002	30 min
5. Construction Update	15 min
○ Daphne, Vestavia Hills and Little Rock	
○ Design changes to the 18-screen prototype	
6. Film	15 min
○ Outlook for the balance of 2002	
7. Financing Update	45 min 3:00
○ Senior credit agreement	
○ EPT and WP Carey	
○ Capital needs <ul style="list-style-type: none"> - Committed projects - Proposed projects 	
○ Forward commitments	
	Total <u>4.0 hrs</u>

1-6	Open & operating theaters	90	Misc.	90
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Theater Pipeline	As Of:	9/10/2002
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#	Opening Year	Opening Month	Theater	Scns	Market	State	Construction Start	Cummulative Screen Count
7	2002	November	Vestavia Hills	10 A	Birmingham	AL	March 2002	
8	2002	December	Colonel Glenn	18 A	Little Rock	AR	May 2002	118
9	2003	April	West Chester Village	18 A	Cincinnati	OH	Sept. 2002	
10	2003	June	Hatteras Village	16 (L) A	Baton Rouge	LA	Sept. 2002	118 <i>fwl Carey</i> → <i>Fsku</i>
11	2003	Fall	Destin Commons	14 (L)	Destin	FL	Jan. 2003	
12	2003	Fall	Patton Creek	16 (L)	Birmingham	AL	Feb. 2003	<i>No Parent Gaurant</i>
13	2003	Fall (Late)	Erie Blvd	18	Syracuse	NY	March 2003	200
14	2004	Spring	TBA	18 A	Chattanooga	TN	Fall 2003	
15	2004	Spring	Viera Promenade	16 (L) A	Melbourne	FL	July 2003	<i>No Parent Gaurantee</i>
16	2004	Spring	Dodge Road	18	Omaha	NE	Qtr 3 2003	
17	2004	Spring	Dogwood Festival	18	Jackson	MS	Qtr 3 2004	
18	2004	Fall	6th & Lamar	12 (L)	Austin	TX	Qtr 1 2004	282

A16 Baker - no parent company guarantee .

FRASER STRYKER MEUSEY OLSON BOYER & BLOCH, PC
LAWYERS

TIMOTHY J. THALKEN
DIRECT DIAL: 402.978.5285
TTHALKEN@FRASERSTRYKER.COM

500 ENERGY PLAZA
409 SOUTH 17TH STREET
OMAHA, NEBRASKA 68102-2663
TELEPHONE 402.341.6000
TELEFAX 402.341.8290
WWW.FRASERSTRYKER.COM

OMAHA
DENVER

August 11, 2004

Jennifer A. Brennan
Choate, Hall & Stewart
Exchange Place
53 State Street
Boston, MA 02109-2804

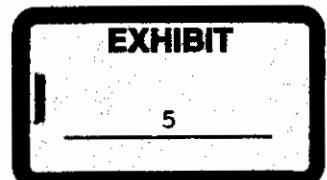
RE: 168th and Dodge, LP v. Rave Reviews Cinemas, LLC
U.S. District Court (D. Neb.) Case No. 8:03CV171

Dear Ms. Brennan:

We are in receipt of the two documents that Boston Ventures produced pursuant to RED's Rule 45 Subpoena as well as a letter dated July 28, 2004, setting forth a number of seemingly standard objections to RED's Subpoena. We request that you provide some clarification regarding your document production and objections.

In your July 28, 2004 letter you state a number of objections, including objections based on the attorney-client and work-product privileges. In your August 3, 2004 cover letter you state that Boston Ventures "possesses no additional documents reasonably responsive to the Subpoena" but that your production is being made pursuant to the objections outlined in your July 28, 2004 letter. We would like you to clarify whether the two documents you have produced are the only documents in your possession, or whether you have additional documents over which you are (1) claiming a privilege or (2) objecting on other grounds.

To the extent that you have additional documents that you consider to be confidential and proprietary and which may constitute trade secrets we are willing to enter into an appropriate Protective Order to ensure that these confidential and proprietary documents are used only for purposes of this litigation. With respect to your objection that you have had insufficient time in which to respond to the subpoena, RED is more than willing to work with you to provide a reasonable time in which you can more fully respond to our subpoena.

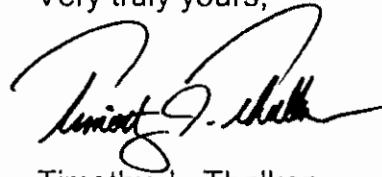


Jennifer A. Brennan
August 11, 2004
Page 2

We are aware that Boston Ventures is a significant investor in Rave Reviews Cinemas. We note that according to document BV002 which you produced, Rave Reviews Cinemas provided you with a schedule showing that they would open a new theater in the Spring of 2004 located on Dodge Road in Omaha, Nebraska with construction to begin in the third quarter of 2003. Rave's agreement to build that theater in Omaha is at the heart of the lawsuit filed by RED. Given that the proposed theater in Omaha was a topic of discussion during your September 11, 2002, Board of Managers Meeting, we believe that you may have additional documents relating to Rave's plans to build a theater in Omaha, Nebraska that have not yet been produced.

Please contact me at your earliest convenience to discuss this clarification.

Very truly yours,



Timothy J. Thalken
FOR THE FIRM

TJT/dmw
cc: Michael F. Coyle
360382.01

CHOATE, HALL & STEWART

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

JENNIFER A. BRENNAN
DIRECT DIAL: (617) 248-5005
EMAIL: JBRENNAN@CHOATE.COM

EXCHANGE PLACE

53 STATE STREET

BOSTON, MASSACHUSETTS 02109-2804

TELEPHONE (617) 248-5000 • FAX (617) 248-4000

WWW.CHOATE.COM

August 18, 2004

Timothy J. Thalken
Fraser, Stryker, Meusey, Olson, Boyer & Bloch, P.C.
500 Energy Plaza
409 S. 17th Street
Omaha, NE 68102-2613

RE: 168th and Dodge, LP v. Rave Review Cinemas, LLC
United States District Court (D. Neb.) Case No.: 8:03CV171

Dear Mr. Coyle:

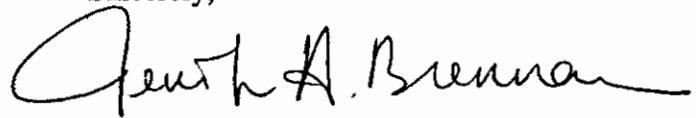
I am in receipt of your August 11, 2004 letter concerning Boston Ventures' response to your client's subpoena. In response to your inquiries, Boston Ventures has completed its review for responsive materials and has no additional materials to produce. Boston Ventures is not withholding any documents responsive to Request Nos. 1, 2, 3, or 5 from production based on a claim of privilege or other objection.

As noted in my July 28, 2004 letter, Boston Ventures continues to withhold documents responsive to request number four, which seeks production of materials relating to Boston Ventures' financing of, or investment in, Rave Reviews Cinemas. Documents concerning these topics are not germane to the issues in dispute - - the alleged opening and construction of a theatre (as described in your letter) - - and constitute confidential and proprietary business information and/or trade secrets. Given these concerns, at this time, we decline your offer to produce these materials pursuant to a protective order.

Timothy J. Thalken
August 18, 2004
Page 2

Please do not hesitate to call me if you need any additional information or clarification.
Boston Ventures reserves all rights in connection with this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer A. Brennan".

Jennifer A. Brennan

cc: Mark D. Cahill, Esq.

UNITED STATES DISTRICT COURT**FOR THE DISTRICT OF MASSACHUSETTS**

168TH AND DODGE, LP, a Nebraska Limited Partnership, f/k/a BROWN INVESTMENT PARTNERSHIP, LTD., and RED DEVELOPMENT OF WEST DODGE, LLC, a Missouri Limited Liability Company,

SUBPOENA IN A CIVIL CASE

CASE NUMBER: 8:03CV171

Filed in United States District Court for the District of Nebraska

v.

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TO: **Boston Ventures Management, Inc.**
One Federal Street, 23rd Floor
Boston, Massachusetts 02110-2003

YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

X **YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.**

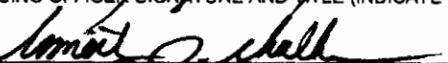
PLACE OF DEPOSITION	DATE AND TIME
Choate, Hall & Stewart, LLP Exchange Place, 53 State St. Boston, MA 02109	Thursday, June 30, 2005, at 9:00 a.m. EST
See attached Subpoena Rider	

X **YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified above (list documents or objects):**

See attached Subpoena Rider

PLACE	DATE AND TIME
<input type="checkbox"/> YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.	
PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
	May 31, 2005
Attorney for Plaintiff	
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER	Fraser, Stryker, Meusey, Olson, Boyer & Bloch, 500 Energy Plaza, 409 S. 17th Street Omaha, NE 68102-2613; (402) 341-6000
Timothy J. Thalken	

PROOF OF SERVICE

SERVED	DATE	PLACE
SERVED ON (PRINT NAME)		MANNER OF SERVICE
SERVED BY (PRINT NAME)		TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE _____
SIGNATURE OF SERVER _____

ADDRESS OF SERVER _____

Rule 45, Federal Rules of Civil Procedure, Parts C & D:**(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 10 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

SUBPOENA RIDER

1. Produce all correspondence, whether in electronic format or otherwise, between Rave Reviews Cinemas, L.L.C., including its agents and employees, and Boston Ventures Management, Inc., including its parents, subsidiaries, agents and employees, regarding the Village Pointe Shopping Center project in Omaha, Nebraska.
2. Produce all documents, whether in electronic format or otherwise, between Rave Reviews Cinemas, L.L.C., including its agents and employees, and Boston Ventures Management, Inc., including its parents, subsidiaries, agents and employees, regarding building and/or operating a movie theater in Omaha, Nebraska.
3. Produce all market studies, reports, memoranda or other documents that refer to building or operating movie theaters in Omaha, Nebraska or the greater Omaha area.
4. Produce all documents relating or referring to Rave Reviews Cinemas, L.L.C.'s decision not to build and or operate a theater in Omaha, Nebraska or the greater Omaha area.
5. Produce all documents relating to Boston Ventures Management, Inc.'s financing of or investment in, Rave Reviews Cinemas, L.L.C.
6. Produce all documents, including correspondence, between Rave Reviews Cinemas, L.L.C., its agents or employees, and Boston Ventures Management, Inc., its agents or employees, regarding the lawsuit entitled: "168th and DODGE, LP, a Nebraska Limited Partnership f/k/a BROWN INVESTMENT PARTNERSHIP, LTD., and RED DEVELOPMENT OF WEST DODGE, LLC, a Missouri Limited Liability Company v. Rave Reviews Cinemas, L.L.C." in the United States District Court for the District of Nebraska, Case No. 8:03CV171 .
7. Produce a witness who has the most knowledge regarding Boston Ventures Management, Inc.'s April 2002 site visit to Omaha, Nebraska to discuss Rave Reviews Cinemas, L.L.C., building and/or operating a theater in the Omaha area.
8. Produce a witness who has the most knowledge regarding the issues identified in items 1-7 above.
9. Produce a witness who has the most knowledge regarding communications made by Rave Reviews Cinemas, L.L.C., regarding its plans or intent to build and/or operate a theater in Omaha, Nebraska.
10. Produce a witness who has the most knowledge regarding communications made by Rave Reviews Cinemas, L.L.C., regarding its decision not to build and/or operate a theater in Omaha, Nebraska.

CHOATE, HALL & STEWART LLP
EXCHANGE PLACE
53 STATE STREET
BOSTON, MASSACHUSETTS 02109-2804
T (617) 248-5000 F (617) 248-4000
www.choate.com

June 10, 2005

VIA FACSIMILE AND REGULAR MAIL

Timothy J. Thalken
Michael F. Coyle
Fraser, Stryker, Meusey, Olson, Boyer & Bloch, P.C.
500 Energy Plaza
409 South 17th St.
Omaha, NE 68102

RE: *168th & Dodge, L.P., et al. v. Rave Reviews Cinemas, LLC,*
Case No. 8:03CV171 (D. Neb.)

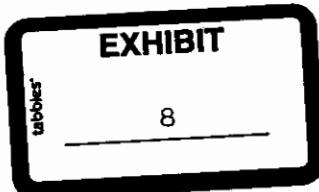
Dear Mr. Thalken:

I am in receipt of your e-mail message of May 31, 2005 stating that you would "shortly" be issuing a third party subpoena (the "Subpoena") to Boston Ventures Management, Inc. ("Boston Ventures"), and your deposition notice dated June 3, 2005 for the deposition of Boston Ventures. While I have not yet been served with a formal deposition subpoena, I am writing to place you on notice that Boston Ventures objects, pursuant to Fed. R. Civ. P. 45(c)(2)(B), to the inspection or copying of materials designated in the Subpoena as follows:

1. Boston Ventures objects to the Subpoena insofar as it assumes the existence of the documents requested. Boston Ventures' objections to any of the requests shall not constitute a representation that any such documents exist.

2. Boston Ventures objects to the Subpoena to the extent that it seeks materials protected by the attorney-client privilege and/or the attorney work-product doctrine. Boston Ventures further objects to the Subpoena to the extent that it calls for the production of materials that are confidential, proprietary or contain or constitute trade secrets.

3. Boston Ventures objects to each specific request for the production of documents contained in the Subpoena to the extent that they are overly broad, unduly burdensome, and so vague and indefinite as to fail to identify those documents being sought with sufficient specificity to enable Boston Ventures to ascertain which documents are responsive to the request.



Timothy J. Thalken
June 10, 2005
Page 2

4. Boston Ventures objects to the Subpoena insofar as it seeks documents that are neither relevant to the subject matter of the litigation between Red and Rave Reviews, nor reasonably calculated to lead to the discovery of admissible evidence.

5. Boston Ventures objects to the Subpoena to the extent it is not narrowly tailored so as to avoid imposing undue burden or expense on Boston Ventures as required by Fed. R. Civ. P. 45(c)(1).

6. Boston Ventures objects to the Subpoena on the ground that it is largely duplicative of the Subpoena you served on Boston Ventures on July 12, 2004.

7. Boston Ventures objects to the Subpoena to the extent that it calls for the testimony of the "witness who has the most knowledge" on various topics. Such requests exceed Boston Ventures' obligations under Fed. R. Civ. P. 30(b)(6). In compliance with Rule 30(b)(6), Boston Ventures will designate an individual to testify on its behalf as to matters known to, or reasonably available to, the company.

8. Boston Ventures objects to producing documents responsive to topic number five in the Subpoena Rider, which requests "documents relating to Boston Ventures' financing of, or investment in, Rave Reviews Cinemas, LLC." Documents concerning this topic are not relevant to any of the issues in dispute, nor are they reasonably likely to lead to the discovery of admissible evidence. These documents further constitute confidential and proprietary business information and/or trade secrets of Boston Ventures. Because of the highly sensitive nature of the information requested in topic five, Boston Ventures is not designating a witness to testify to that particular subject matter.

Subject to and without waiving its objections, Boston Ventures will search for non-privileged documents in its possession, custody, or control, in addition to those it produced in August 2004, which are reasonably responsive to the topics numbered one, two, three, four and six. Boston Ventures will also designate a witness to testify in response to the topics numbered seven eight, nine and ten, with the exception that with respect to topic eight, it will not designate a witness to testify as to topic number five.

For your convenience, Boston Ventures will produce any additional documents it locates directly to you at your Omaha, Nebraska address on or before June 27, 2004..

Timothy J. Thalken
June 10, 2005
Page 3

Please do not hesitate to call me if you have any questions or would like to discuss this matter.

Very truly yours,



Kathleen Burdette Shields

cc: Mark D. Cahill, Esq.

FRASER STRYKER MEUSEY OLSON BOYER & BLOCH, PC
LAWYERS

500 ENERGY PLAZA
409 SOUTH 17TH STREET
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MICHAEL F. COYLE
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MCOYLE@FRASERSTRYKER.COM

June 29, 2005

VIA FACSIMILE: (617) 248-4000
AND FIRST CLASS MAIL

Kathleen Burdette Shields
Chaote Hall & Stewart, LLP
Exchange Place
53 State Street
Boston, MA 02109-2804

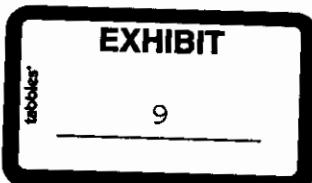
RE: *168th and Dodge, LP v. Rave Reviews Cinemas, LLC*
Case No. 8:03CV171

Dear Kathleen:

This letter follows up our conversation yesterday. It is our understanding that Boston Ventures has documents outlining its relationship with Rave Reviews Cinemas, LLC ("Rave"), but that you have not produced those documents because you do not believe that they are relevant. We believe that our request for documents and information relating to Boston Ventures' involvement in Rave Reviews Cinemas is reasonably calculated to lead to the discovery of admissible evidence. Therefore, we once again request that you produce documents relating to Boston Ventures' relationship with Rave.

More specifically, we are entitled to learn whether Boston Ventures exercises any control over, or has the right to approve or disapprove of, particular theater projects that are proposed by Rave, and whether there are specific protocols or procedures that must be followed in this approval process. Previously, you produced to us documents showing that various theater projects, including the Omaha project, were discussed at a Manager's meeting, but you have not provided any meeting minutes or any notes from the participants in that meeting. Please provide these documents at tomorrow's deposition.

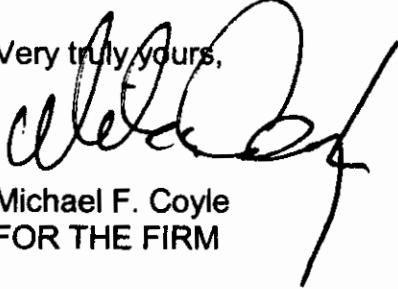
As you know, we will be expending significant resources to travel to Boston for this deposition. Should another trip be required due to your decision to withhold discoverable documents, we reserve the right to take the matter up with the Court and seek our costs related to taking a second deposition of Boston Ventures.



Ms. Kathleen Shields
June 29, 2005
Page 2

I look forward to meeting you in person tomorrow.

Very truly yours,


Michael F. Coyle
FOR THE FIRM

386058.02

Page 1

VOLUME: I
PAGES: 205
EXHIBITS: 1 - 6

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

168th and DODGE, L.P., a Nebraska)
Limited Partnership f/k/a BROWN)
INVESTMENT PARTNERSHIP, LTD., and)
RED DEVELOPMENT OF WEST DODGE, LLC)
a Missouri Limited Liability Company,)
)
Plaintiffs,)
)
vs.)
)
RAVE REVIEWS CINEMAS, LLC, a Texas)
Limited Liability Corporation,)
)
Defendant.)

VIDEO DEPOSITION OF ELIZABETH
GRANVILLE-SMITH, a witness called on behalf of the
Plaintiffs before Dawn Mack-Boaden, Court Reporter
and Notary Public in and for the Commonwealth of
Massachusetts, held at the Law Offices of Choate,
Hall & Stewart, 53 State Street, Boston,
Massachusetts, on Thursday, June 30, 2005,
commencing at 9:15 a.m.

EYAL COURT REPORTING, INC.
4 FANEUIL HALL MARKETPLACE
BOSTON, MASSACHUSETTS 02109
(617) 723-9432 (800) 322-3925

EYAL COURT REPORTING, BOSTON, MA (800) 322-3925

EXHIBIT

1 APPEARANCES
2

3 Michael F. Coyle, Esquire
 4 FRASER STRYKER MEUSEY OLSON BOYER & BLOCH, P.C.
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 6 409 South 17th Street
 7 Omaha, Nebraska 68102-2663
 8 (402) 341-6000
 9 Counsel on behalf of the Plaintiffs
 10 Kathleen Burdette Shields, Esquire
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 12 Exchange Place
 13 53 State Street
 14 Boston, Massachusetts 02109
 15 (617) 248-5000
 16 Counsel on behalf of Ms. Granville-Smith

17 Lynn S. McCreary, Esquire
 18 Jennifer A. Donnelly
 19 BRYAN CAVE, LLP
 20 One Kansas City Place
 21 1200 Main Street, Suite 3500
 22 Kansas City, Missouri 64105-2100
 23 (816) 374-3208
 24 Counsel on behalf of the Defendant

1 ALSO PRESENT:
 2 Steven M. Maun, RED

1 PROCEEDINGS
2

3 (Exhibit Number 1 was marked for
 4 identification.)

5 ELIZABETH GRANVILLE-SMITH, a witness
 6 first having been duly sworn,
 7 testified as follows:

8
9 DIRECT EXAMINATION
10

11 BY MR. COYLE:

12 Q. Would you state your name for the record,
 13 please.

14 A. Elizabeth Granville-Smith.

15 Q. Ms. Smith, my name is Michael Coyle. I'm
 16 an attorney from Omaha, Nebraska; and I represent
 17 the 168th and Dodge Partnership and RED Development
 18 Company, who are Plaintiffs in a lawsuit that's
 19 pending in the United States District Court for the
 20 District of Nebraska against a company called Rave
 21 Reviews Cinemas, and I introduced myself to you
 22 before we got started.

23 A. Good morning.

24 Page 4

1 INDEX
2

3 Witness Direct Cross Redirect Recross
 4 ELIZABETH GRANVILLE-SMITH
 5 (By Mr. Coyle) 4

6 EXHIBITS
7

No.	Description	Page
1	Notice of Deposition	6
2	Three-page Document; Letter, BV 001, BV 002	13
3	Rave Motion Pictures Web Site	120
4	Boston Ventures Web Site	131
5	Eleven-Page Document	137
6	Set-Aside Letter	149

16 * Exhibits were retained by the court reporter and
 delivered with the transcript.

1 Q. What I'm going to do here this morning is
 2 I'd like to ask you some questions about some
 3 knowledge that you may or may not have about some of
 4 the matters that are pending in that lawsuit. Do
 5 you understand that?

6 A. Yes, I do.

7 Q. Do you understand that your testimony here
 8 today is under oath?

9 A. Yes, I do.

10 Q. And what I will do is, is I'll ask you a
 11 question, and if you understand it, please go ahead
 12 and answer it. If it's unclear to you and you'd
 13 like for me to rephrase it, then please ask me to do
 14 so because if you do answer, I'm going to assume
 15 that you understood my question. Okay?

16 A. Yes.

17 Q. Now, your attorney here today is with you,
 18 Ms. Kathleen Shields. If you would like to take a
 19 recess and visit with Ms. Shields at any time, just
 20 tell me. Okay?

21 A. Okay.

22 Q. Now, do you understand I'll be depending
 23 on your answers in my preparation for this case?

24 A. Yes, I do.

Page 5

2 (Pages 2 to 5)

1 **Q. Now, where are you employed?**
 2 A. Boston Ventures Management.
 3 **Q. Okay. And how long have you been so**
 4 **employed?**
 5 A. Approximately, ten years.
 6 **Q. Now, this deposition is being shown in the**
 7 **United States District in Omaha, Nebraska. But**
 8 **we're taking this deposition in Boston,**
 9 **Massachusetts; is that correct?**
 10 A. Yes.
 11 **Q. Do you actually live in Boston?**
 12 A. No, I don't.
 13 **Q. Okay. Do you live out -- I take it you**
 14 **live in the area.**
 15 A. No; I live in New York City.
 16 **Q. Okay. And you traveled down here for**
 17 **purposes of this deposition today?**
 18 A. Yes, I did.
 19 **Q. Now, have you received a copy of Exhibit**
 20 **Number 1, a notice to take your deposition?**
 21 A. Let me take a look at it.

22

23 MS. SHIELDS: Please review all the
 24 pages of the exhibit.

Page 6

1 THE WITNESS: I recall receiving the
 2 first three pages, but not the subsequent
 3 two.
 4

5 BY MR. COYLE:
 6 **Q. Okay. And pages 1, 2, and 3, those would**
 7 **be a notice to take a deposition duces tecum of**
 8 **Boston Ventures Management; is that correct?**
 9 A. That's what it says, yes.
 10 **Q. And you have seen those documents prior to**
 11 **this morning?**
 12 A. Yes, I have.
 13 **Q. The last two pages you haven't seen prior**
 14 **to today?**
 15 A. No, I have not.
 16 **Q. Okay. Now, this is a 30(b)(6) deposition.**
 17 **Was that explained to you by your attorney?**

19 MS. SHIELDS: Objection. That -- that
 20 question calls for material that's
 21 protected by the attorney/client privilege.
 22 MR. COYLE: Okay.

24 BY MR. COYLE:

Page 7

1 **Q. And, again, I'm not trying to get anything**
 2 **you talked about with your attorney.**
 3 **Are you the person who's been designated**
 4 **by Boston Ventures to render testimony here today?**

5 A. Yes, I am.
 6 **Q. And are you the person who has been**
 7 **designated by Boston Ventures as their**
 8 **representative to testify about the matters that are**
 9 **contained on Exhibit Number 1?**

10

11 MS. SHIELDS: And at this time, I'll
 12 state for the record that Boston Ventures
 13 has objected to Topic Number 5 and is not
 14 producing Ms. Granville-Smith to testify as
 15 to Topic Number 5; and to the extent that
 16 Topic Number 8 requests testimony on Topic
 17 Number 5, that portion of Topic 8.

18 MR. COYLE: Okay. You were doing it a
 19 little quickly there for me, Counsel.

20 Could you read my question back,
 21 please.

22

23 (The question was read back as
 24 follows:

Page 8

1 "And are you the person who has
 2 been designated by Boston Ventures as
 3 their representative to testify about
 4 the matters that are contained on
 5 Exhibit Number 1?")

6

7 MS. SHIELDS: Same objection.

8 THE WITNESS: Subject to the
 9 objection, yes, I am.

10 MR. COYLE: Okay. And just let me
 11 see if I can understand what the objection
 12 is.

13 BY MR. COYLE:

14 **Q. Is it you are not prepared to testify here**
 15 **today about anything relating to Item Number 5; is**
 16 **that correct?**

19 MS. SHIELDS: For the record,
 20 Mr. Coyle, Boston Ventures has objected to
 21 Topic Number 5. It's a vastly overbroad
 22 request that involves confidential and
 23 proprietary business information of Boston
 24 Ventures.

Page 9

3 (Pages 6 to 9)

1 We've objected to this topic, and we
 2 have not conducted a search for documents
 3 in response to this topic.

4 However, without waiving our
 5 objections to this topic, I understand that
 6 you are interested in a far narrower
 7 subject, which is Boston Ventures' control
 8 over or right to control the approval or
 9 disapproval of particular theater projects.

10 We've not undertaken a search for
 11 documents with respect to that narrower
 12 issue, but I'll permit Ms. Granville-Smith
 13 to answer questions relating to that much
 14 narrower issue.

15 MR. COYLE: Okay. And I understand
 16 that you and I have a disagreement among
 17 the two of us about whether Boston Ventures
 18 has appropriately responded to the subpoena
 19 that was issued to you, as well as the
 20 deposition notice duces tecum. I
 21 understand that, and we can -- we can take
 22 that up at a -- at a later date.

23 Why don't I go ahead and examine the
 24 witness here today about what we can get

Page 10

1 accomplished, and then you and I can see
 2 where we disagree. Okay?

3 MS. SHIELDS: That's fine. Just so
 4 you understand, there may be questions to
 5 which Boston Ventures objects and will not
 6 permit the witness to answer because
 7 they're not properly covered by the
 8 permissible topics on your subpoena.

9 MR. COYLE: Okay. And, again, we can
 10 take that up when we get to it. Okay.

11 And I just -- I'll need to know the --
 12 the basis of your objection to that would
 13 be that you don't think it's relevant to
 14 the lawsuit that's pending in Nebraska?

15 MS. SHIELDS: The basis of our
 16 objection has been explained in numerous
 17 pieces of correspondence and conversations
 18 with your office.

19 MR. COYLE: Okay. And I understand
 20 that. Just, again, I don't know whether I
 21 agree or disagree with that. But is it
 22 that it's not relevant or it's confidential
 23 or both?

24 MS. SHIELDS: There are a number of

Page 11

1 objections.

2 The first is the topic is so broad
 3 that it covers an unreasonable -- an
 4 unreasonably broad number of documents.
 5 Responding to the subpoena would be unduly
 6 burdensome for Boston Ventures.

7 The second is that those documents are
 8 not relevant to the present dispute; that
 9 being a dispute about a particular project
 10 in Omaha.

11 And the third is that these documents,
 12 in addition to being voluminous and
 13 irrelevant, are highly confidential and
 14 proprietary.

15 MR. COYLE: Okay. Let's move on.

16 BY MR. COYLE:

17 Q. **Ms. Smith, pursuant to Exhibit Number 1,**
 18 **you were asked to bring some documents with you here**
 19 **today.**

20 A. I was asked to produce some documents for
 21 this request.

22 Q. **Is that correct?**

23 A. Yes.

Page 12

1 Q. **Okay. Let me hand to you what has been --**
 2 **I'm going to ask the court reporter to mark as**
 3 **Exhibit Number 2.**

4 (Exhibit Number 2 was marked for
 5 identification.)

6 BY MR. COYLE:

7 Q. **After you've had a chance to take a look**
 8 **at that for a moment, I'll ask you some questions**
 9 **about it. Okay?**

10 A. Okay.

11 Q. **Have you had an opportunity to look at**
 12 **Deposition Exhibit Number 2?**

13 A. Yes, I have.

14 Q. **And can you identify those documents for**
 15 **the record, please.**

16 A. Attached to Exhibit Number 2 are two
 17 documents.

18 The first is entitled, Board of Managers
 19 Meeting Agenda, September 11th, 2002.

20 The second is entitled, Theater Pipeline,
 21 as of September 10th, 2002.

22 Q. **Okay. Now, so Exhibit Number 2 consists**

Page 13

4 (Pages 10 to 13)

1 of three pages; is that correct?

2 A. Yes.

3 Q. And the two documents that you referred to
4 have Bate stamps numbers at the bottom of them.
5 One of them says BV 001, and the second
6 says BV 002; is that correct?

7 A. Yes.

8 Q. Now, is it your testimony that those two
9 documents are the documents that you've produced in
10 response to Exhibit Number 1?

11 A. These two documents were produced earlier
12 in this process from the first subpoena.

13 We then received a subsequent subpoena,
14 and we went back and reviewed our documentation
15 again; and these two documents were the only ones
16 that were responsive.

17 Q. Okay. So just so you and I understand
18 each other, documents BV 001 and BV 002 are the only
19 documents that were produced in response to Exhibit
20 Number 1?

21 A. That's correct.

22 Q. Okay. Now, let's go back to Exhibit
23 Number 1, and I'll ask that you turn to the third
24 page. Okay? Do you see Exhibit A there?

Page 14

1 each given a copy of this subpoena.

2 Q. Okay. Now, Ms. Granville-Smith, is it
3 your testimony that there is no e-mails between
4 Boston Ventures and Rave Reviews Cinemas regarding a
5 potential theater engagement in Omaha, Nebraska?

6 A. Based upon my review of our files, I did
7 not find any e-mail correspondence.

8 Q. So -- okay. Again, I'm following up so I
9 can understand you.

10 So it's your testimony for the judge and
11 the ladies and gentlemen of the jury that Boston
12 Ventures doesn't have a single e-mail communication
13 between any employee, agent of Boston Ventures and
14 any representative of the Rave Reviews Cinemas
15 regarding a theater project in Omaha, Nebraska?

16 MS. SHIELDS: Objection.

17 MS. MCCREARY: Objection; asked and
18 answered. It's argumentative.

19 MS. SHIELDS: Same objection.

20 THE WITNESS: Shall I answer?

21 MS. SHIELDS: If you can.

22 THE WITNESS: Based upon my review of
23 our files, which I believe was thorough, I

Page 16

1 A. Yes.

2 Q. First of all, it asks you to produce all
3 correspondence, whether in electronic format or
4 otherwise, between Rave Reviews Cinemas, L.L.C.,
5 including its agents and employees, and Boston
6 Ventures Management, Inc., including its parents,
7 subsidiaries, agents and employees, regarding the
8 Village Pointe Shopping Center project in Omaha,
9 Nebraska. Did I read that correctly?

10 A. Yes.

11 Q. Now, did you actually engage in this
12 search?

13 A. Yes, I did.

14 Q. What steps did you take to -- to look for
15 responsive documents?

16 A. I reviewed all of my own personal Rave
17 files, as well as all my electronic files. I then
18 reviewed all of the central files that we keep
19 within the firm, where we keep all of our deal
20 memoranda, et. cetera.

21 I then requested that every member of my
22 team do the same and asked for them to respond back
23 to me with the affirmative that either they had
24 found documents or they had not. They were also

1 found no e-mail correspondence.

2 BY MR. COYLE:

3 Q. Now, were you actually -- did you have any
4 involvement in this particular engagement?

5 MS. SHIELDS: Objection as vague.

6 BY MR. COYLE:

7 Q. Did you have any involvement in -- in
8 Boston Ventures looking at a potential investment in
9 a Rave -- Rave Reviews Cinema project in Omaha,
10 Nebraska? Did you have any involvement in that?

11 A. I had no direct involvement.

12 Q. What does that mean? I mean, did people
13 on your team have involvement in that?

14 A. No direct involvement.

15 Q. I guess I -- I don't know what that means.

16 MS. MCCREARY: I'm going to object.
17 I'm going to ask the court reporter if you
18 can read back his foundational question,
19 please.

20 COURT REPORTER: The last question?

Page 17

5 (Pages 14 to 17)

1 MS. MCCREARY: His foundational
2 question.
3

4 MS. SHIELDS: The not what does that
5 mean. The one where there's actually a
6 substantive question.
7

8 (The question was read back as
9 follows:
10

11 "I mean, did people on your team
12 have involvement in that?"
13

14 MS. MCCREARY: The one before that.
15

16 (The question was read back as
17 follows:
18

19 "Did you have any involvement in
20 Boston Ventures looking at a
21 potential investment in a Rave
22 Reviews Cinema project in Nebraska?"
23

24 MS. MCCREARY: Thank you.
25

26 MR. COYLE: Can you read my last
27 question back, please?
28

Page 18

1 (The question was read back as
2 follows:
3

4 "I mean, did people on your team
5 have involvement in that?"
6

7 BY MR. COYLE:
8

9 Q. Now, you've answered -- let me follow up.
10 You're telling me no direct involvement.
11

12 I take it that direct involvement means that you
13 never personally sent an e-mail?
14

15 MS. SHIELDS: Objection; vague. If
16 you can answer the question as posed,
17 please do.
18

19 BY MR. COYLE:
20

21 Q. I mean, really, this is not meant to be
22 that hard.
23

24 I'm just trying to find out if there's --
is it your testimony, Ms. Granville-Smith, that you
never sent an e-mail to anybody at Rave regarding
Boston Ventures potentially participating in the
development of a theater complex in Omaha, Nebraska?
25

A. I don't know whether or not I sent an

1 e-mail to them about that or not.
2

3 Q. Okay. Did -- did you ever have any
4 discussions with anybody at Rave about a potential
5 investment in a theater project in Omaha, Nebraska?
6

7 A. I had knowledge that they were looking at
8 Omaha. I had no direct involvement in the process.
9

10 Q. Okay. Now, let's go back to when you say
11 direct involvement -- and we'll talk about that in a
12 second, but my question is really a lot more narrow.
13

14 What I'm trying to find out is, is there
15 ever any e-mail communications with
16 representatives of Boston Ventures and
17 representatives of Rave involving this project in
18 Omaha, Nebraska?
19

20 MS. SHIELDS: Objection; asked and
21 answered.
22

23 MS. MCCREARY: And foundation.
24 THE WITNESS: I don't know if there
25 are any e-mails.
26

27 BY MR. COYLE:
28

29 Q. Okay. And let me tell you why I'm asking
30 you the question is, is that we sent out this
31

Page 20

1 notice, Exhibit Number 1, and we asked Boston
2 Ventures to produce somebody who could testify about
3 these matters, and we asked you to bring with you
4 all e-mails between Boston Ventures and Rave
5 regarding this potential engagement in Omaha,
6 Nebraska, and none have been produced. Can we agree
7 on that?

8 A. None have been produced.
9

10 Q. Okay. Now, I understand that you sent out
11 a copy of the subpoena to all of your colleagues and
12 asked them, you know, to look; and, apparently,
13 nobody gave you any e-mails. Is that what you're
14 telling us?

15 MS. SHIELDS: Objection. It misstates
16 the witness's prior testimony.
17

18 THE WITNESS: I sent out the subpoena.
19 I asked people to review their e-mail
20 correspondence, all their electronic files,
21 as well as our print files. And what I
22 received back is what I produced.
23

24 BY MR. COYLE:
25

26 Q. Do you -- do people at Boston Ventures
27

Page 21

1 **routinely use e-mail?**

2 A. Yes.

3 **Q. And, certainly, Rave Reviews Cinema is**
 4 **somebody that members of your team, so to speak,**
 5 **work with on a daily basis; Is that a fair**
 6 **statement?**

7
8 MS. SHIELDS: Objection.

9 THE WITNESS: Not on a daily basis.
10

11 BY MR. COYLE:

12 **Q. How about on a routine basis?**

13
14 MS. SHIELDS: Objection.

15 MS. MCCREARY: Objection.

16 THE WITNESS: On a routine basis, we
17 discuss things with the management team of
18 Rave.

19 BY MR. COYLE:

20 **Q. Okay. I mean, I'm just trying to figure**
21 **out what your testimony is on this.**

22 **Are you telling us that there are no**
23 **e-mails?**

24 Page 22

1 MS. SHIELDS: Objection; asked and
2 answered.

3 MS. MCCREARY: Same.

4 THE WITNESS: That's what I'm saying.
5 Based upon our review of our documentation,
6 there are no e-mails that exist.

7 BY MR. COYLE:

8 **Q. Okay. So just -- and just so I'm certain**
9 **I understand this, what you're telling us is that**
10 **nobody at Boston Ventures ever exchanged an e-mail**
11 **with anybody at Rave regarding Rave potentially**
12 **developing a theater in Omaha, Nebraska?**

13
14 MS. SHIELDS: Objection; asked and
15 answered. It's argumentative.

16 Ms. Granville-Smith has answered this
17 question several times. I'll permit her to
18 answer it one more time, and that's it.

19
20 MR. COYLE: Well, then I want the
21 court reporter to read back and -- I
22 understand your objection. I don't know if
23 I agree with it, but I understand it.
24 Please read it back.

Page 23

1 (The question was read back as
2 follows:

3 "So just -- and just so I'm
4 certain I understand this, what
5 you're telling us is that nobody at
6 Boston Ventures ever exchanged an
7 e-mail with anybody at Rave regarding
8 Rave potentially developing a theater
9 in Omaha, Nebraska?"

10
11 THE WITNESS: Do you want me to answer
12 that again?

13 MS. SHIELDS: If you can.

14 THE WITNESS: What I've said before is
15 that I don't know if there are any e-mails
16 regarding Omaha; but there were none
17 produced because none were found as part of
18 the discovery process.

19 BY MR. COYLE:

20 **Q. So it's your testimony that you don't know**
21 **if there were e-mails exchanged, but nobody gave you**
22 **any?**

23 Page 24

1 MS. SHIELDS: Objection. That
2 misstates the witness's prior testimony.
3 We've been through this area a couple of
4 times.

5 MR. COYLE: No, I don't -- this is a
6 completely different answer, Kathleen.

7 MS. SHIELDS: If you can answer the
8 question.

9 THE WITNESS: Could you please read --
10 state the question.

11
12 (The question was read back as
13 follows:

14 "So it's your testimony that you
15 don't know if there were e-mails
16 exchanged, but nobody gave you any?"

17
18 THE WITNESS: That's correct.

19 BY MR. COYLE:

20 **Q. Okay. Does -- does Boston Ventures have a**
21 **protocol where e-mails are purged from its system on**
22 **a routine basis?**

23
24 A. Yes; we have a protocol for file

Page 25

1 management.

2 **Q. Do you know what that is?**

3 A. I know the protocol, in general. I would
4 have to research the specifics of how it's
5 conducted.

6 **Q. So what is your understanding of the --
7 what's your general understanding of that protocol?**

8 A. We are each given an amount of space on
9 our server for management of our e-mails. When you
10 get above a certain level of space, you need to
11 clean up your desktop.

12 **Q. Okay. And then I take it you have
13 somebody that works in IT there?**

14 A. Yes.

15 **Q. And, presumably, is there some mannerism
16 that your company uses to store e-mails?**

18 MS. SHIELDS: Objection. I caution
19 the witness not to speculate.

20 THE WITNESS: I don't know the
21 specifics.

23 BY MR. COYLE:

24 **Q. Well, and, again, nobody wants you to**

Page 26

1 **speculate. But I think -- can you -- just give me
2 your general understanding.**

3 **I take it that there is a protocol at
4 Boston Ventures for storage of e-mail
5 communications.**

7 MS. SHIELDS: Same objection.

8 THE WITNESS: There is, but I don't
9 know the specifics about it. It's not my
10 area.

11 BY MR. COYLE:

12 **Q. Okay. Now, Ms. Granville-Smith, do you
13 personally use e-mail to communicate with people at
14 Rave?**

16 A. Sometimes. I typically use the telephone.

17 **Q. Okay. Now, did you search your own
18 e-mails?**

19 A. Yes.

20 **Q. How did you do that?**

21 A. I reviewed my directories by name and
22 reviewed -- looked for e-mails relevant to the
23 subpoena request.

24 **Q. Okay. And do you understand the dilemma**

Page 27

1 **that you -- that I'm in is that we've asked for
2 these e-mail communications, and I understand that
3 you sent out -- you described for me what you did to
4 try to find these; but now you've told me that you
5 don't know whether there are or there aren't, but
6 nobody gave you any to produce here today.**

8 MS. SHIELDS: Objection.

10 BY MR. COYLE:

11 **Q. And so my understanding is what is it that
12 I would have to do to find out whether such e-mail
13 transmissions exist between Boston Ventures and Rave
14 regarding the engagement in Omaha, Nebraska?**

16 MS. SHIELDS: Objection. It's vague.

17 It's argumentative. The witness has
18 answered the question, and Boston Ventures
19 has produced documents in response to the
20 subpoena.

21 If you can answer the question, go
22 ahead; but I think the question is
23 improper.

24 MR. COYLE: Kathleen, the witness

Page 28

1 doesn't know if there's e-mails or not.
2 MS. SHIELDS: Boston Ventures --

3 MR. COYLE: I'm just trying to find
4 out how we -- I mean, this is the person
5 that you produced. Okay.

6 MS. SHIELDS: And, Mr. Coyle, Boston
7 Ventures has complied with all of its
8 obligations under the Federal Rules of
9 Civil Procedure in response to your
10 subpoena.

11 MR. COYLE: Okay. Let me keep working
12 here.

13 And if you could read back my
14 question, please.

16 (The question was read back as
17 follows:

18 "What is it that I would have to
19 do to find out whether such e-mail
20 transmissions exist between Boston
21 Ventures and Rave regarding the
22 engagement in Omaha, Nebraska?"

24 THE WITNESS: As I said before, that's
Page 29

1 really outside my scope of knowledge of how
 2 we manage our e-mail system.
 3

4 BY MR. COYLE:

5 Q. Okay. Who -- who would know?

6 A. I suspect our IT manager would know.

7 Q. Okay. Do you know that person's name?

8 A. Elizabeth Fisher.

9 Q. Okay. Did you ever check with Elizabeth
 10 Fisher relative to the request set forth in Exhibit
 11 Number 1, Paragraph Number 1, about how to locate
 12 these e-mails?

13 A. No, I did not.

14 Q. And the directors that you sent out these
 15 e-mails -- this request to to locate these e-mails,
 16 I mean, how many people are we talking about?

17 A. Three people in addition to myself. I
 18 also believe that I copied all of their admin
 19 assistants as well.

20 Q. Okay. Would those be the three directors
 21 at Boston Ventures that have any relationship with
 22 Rave?

23 A. For clarity, only two of them are
 24 directors. The third is an associate that helps me.

Page 30

1 But those three people, in addition to
 2 myself, are the four people involved with Rave.

3 Q. Okay. And what are their names?

4 A. Copey Coppedge.

5 Q. Could you spell that for us, please.

6 A. C-O-P-E-Y, the first name; last name,
 7 Coppedge, C-O-P-P-E-D-G-E.

8 Q. Okay. Who else?

9 A. Barbara Ginader.

10 Q. Could you spell her last name, please.

11 A. Yes; G-I-N-A-D-E-R. And then Brian
 12 Flemming is my associate.

13 Q. So Coppedge and Ginader are both
 14 directors?

15 A. They are both on the board of managers of
 16 Rave.

17 Q. And Brian Flemming is -- is an associate
 18 that works for Boston Ventures and has some dealings
 19 with Rave?

20 A. Yes.

21 Q. Okay. And then you, yourself, are also a
 22 director?

23 A. Yes, I am.

24 Q. So you asked those individuals to come up

1 with responsive e-mails, if they had them, and to
 2 give them to you?

3 A. Yes, I did.

4 Q. Okay. Do you know what steps these
 5 individuals took to try to locate these e-mails?

6 A. I don't know the specifics of their
 7 investigation.

8 Q. Okay. Do you know whether these
 9 individuals have any knowledge about how to search
 10 for such e-mails?

12 MS. SHIELDS: Objection; calls for
 13 speculation. I caution the witness not to
 14 speculate.

15 MR. COYLE: Well, it's a foundational
 16 question, Counsel. I said: Did you know?
 17 If she doesn't know, then you might be
 18 right.

19 Could you read my question back,
 20 please.

22 (The question was read back as
 23 follows:

24 "Do you know whether these

Page 32

1 individuals have any knowledge about
 2 how to search for such e-mails?")

4 THE WITNESS: Based upon their level
 5 of competency, it is reasonable to assume
 6 that they are able to search for e-mails.

8 BY MR. COYLE:

9 Q. Okay. What's the basis of that knowledge?

10 A. I've worked with them for ten years.

11 Q. And do you know -- do you know what -- but
 12 you don't know what specific steps they took?

14 MS. SHIELDS: Objection; asked and
 15 answered.

16 THE WITNESS: No, I do not know what
 17 specific steps they took.

19 BY MR. COYLE:

20 Q. Did you get, like, an e-mail back from
 21 them that said I couldn't find anything?

22 A. I can't recall how they communicated back.
 23 It could have been by e-mail. It could have been
 24 verbal.

Page 33

1 Q. Ms. Granville-Smith, do you believe that
 2 it would be unusual that your company doesn't have a
 3 single e-mail between representatives of Rave
 4 regarding this potential theater project in Omaha,
 5 Nebraska?

6 MS. SHIELDS: Objection.

7 THE WITNESS: No, I do not believe
 8 that it's unusual.

9 BY MR. COYLE:

10 Q. Okay. And why?

11 A. This was a company matter. It had not yet
 12 reached the level of the board of managers.

13 MR. COYLE: Could you read that answer
 14 back, please,

15 (The answer was read back as
 16 follows:

17 "This was a company matter. It
 18 had not yet reached the level of the
 19 board of managers.")

20 Page 34

21 MR. MAUN: It's the Rave board of
 22 managers.

23 BY MR. COYLE:

24 Q. Thank you. You say that was not discussed
 1 in detail at the Rave board of managers level; Is
 2 that correct?

3 A. Yes.

4 Q. Okay. And there are individuals at Boston
 5 Ventures that are on the Rave board of managers?

6 A. Yes.

7 Q. Okay. If Boston Ventures is going to
 8 invest in a Rave project, Is it discussed at the
 9 Rave board of managers level?

10 MS. SHIELDS: Objection. This goes
 11 back to the discussion we had earlier.

12 I'll permit Ms. Granville-Smith to answer
 13 these questions; but if you stray much
 14 further, we may have to have another
 15 discussion.

16 THE WITNESS: Could you please restate
 17 the question for me.

18 Page 36

19 BY MR. COYLE:

20 Q. Okay. Let me follow up on that. What do
 21 you mean by company matter?

22 A. That's a vague question. You'll have to
 23 be more specific.

24 Q. I'm just following up on your -- you said
 1 to me -- I asked you if it was unusual; you said no
 2 because this was a company matter; it had not
 3 reached the level of the board of managers.

4 And I'm just trying to figure out what you
 5 meant by company matter. What does that mean?

6 A. The potential site in Omaha had not yet
 7 reached a level of development in which it was
 8 discussed in detail at the board of managers level.

9 Q. Did the board of managers at Boston
 10 Ventures discuss specific Rave projects for theater
 11 sites?

12 MS. SHIELDS: Objection.

13 MS. MCCREARY: Objection.

14 THE WITNESS: Your question is
 15 incorrect. You have to restate the
 16 question.

17 MR. COYLE: Okay.

18 (The question was read back as
 19 follows:

20 "If Boston Ventures is going to
 21 invest in a Rave project, is it
 22 discussed at the Rave board of
 23 managers level?")

24 THE WITNESS: New theater
 1 opportunities are discussed at the board of
 2 managers level.

3 BY MR. COYLE:

4 Q. And just -- just so I understand what --
 5 maybe we can step back and you can describe for me
 6 Boston Ventures. Could you describe what Boston
 7 Ventures is, generally, as a company?

8 A. Yes. We're a private equity company that
 9 invests in media entertainment and communications
 10 businesses.

11 Q. Okay. And Rave would be one of the
 12 companies that Boston Ventures has had a
 13 relationship with?

14 A. They are in our portfolio, yes.

15 Q. Now, is there a certain level of equity

16 Page 37

17 10 (Pages 34 to 37)

1 that -- that Boston Ventures has committed to Rave?

2
3 MS. SHIELDS: Objection. This -- this
4 question verges into an area that's
5 improper.

6 It was a subject of the subpoena to
7 which we objected, and Ms. Granville-Smith
8 is not being produced in response to that
9 topic.

10 MR. COYLE: Well, she most certainly
11 is.

12 MS. SHIELDS: She's not being produced
13 in response to Topic 5.

14 MR. COYLE: Well, but not giving me
15 any documents and then saying that the
16 witness is not going to be able to testify
17 to Item 5, we've never discussed that.

18 MS. SHIELDS: It's been in all of the
19 correspondence. In my most recent
20 objection to your amended subpoena, it most
21 certainly was in that objection.

22 MR. COYLE: You'll have to get that --
23 that she's not going to testify?

24 MS. SHIELDS: I informed you that we

1
2 MR. COYLE: I called you --
3 MS. SHIELDS: -- no additional
4 documents.

5
6 MR. COYLE: I called you on the phone
7 -- no, there are additional documents. You
8 told me that they're proprietary and
9 confidential, and my subpoena's overbroad.
That's what you've told me.

10 MS. SHIELDS: I told you that we would
11 produce additional documents to the topics
12 to which we agreed to produce documents.

13 MR. COYLE: Okay. Item Number 8 --
14 directing your attention, Counsel, to Item
15 Number 8.

16 It says: Produce a witness who has
17 the most knowledge regarding the issues
18 identified in Items 1 to 7 above.

19 Now, whether you've produced documents
20 to me or not about Item 5, you have to
21 produce the witness who has the most
22 knowledge about it. She's here. I've
23 flown to Boston. Mr. Maun has come here
24 from Arizona. I'd like to get through this
because we've got another deposition. I'd

Page 40

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1 were not producing documents in response to
2 Topic Number 5 and that Ms. Granville-Smith
3 was not designated to testify as to Topic
4 5.

5 I told you that without waiving our
6 objection to that topic, I would permit you
7 to inquire as to the specific procedures or
8 protocols, if any, that Boston Ventures
9 uses in determining whether to approve or
10 disapprove a theater project.

11 Questions about investment in --
12 general questions about investment in Rave
13 are covered by Topic 5, to which we have
14 objected.

15 If you had a problem with Topic 5, you
16 should have pursued that well before the
17 deposition.

18 MR. COYLE: Kathy, you told me on the
19 phone that -- when I called you about it,
20 you told me you were going to produce
21 additional documents on June 27th. I
22 didn't get any.

23 MS. SHIELDS: That's because there
24 were --

1 like to ask the witness questions about it.

2 MS. SHIELDS: Mr. Coyle, in the letter
3 I wrote to you objecting to your subpoena,
4 I informed you -- and if you'd look at that
5 letter, you'd see that we objected to Topic
6 8 to the extent that it relied on Topic 5.

7 I will permit Ms. Granville-Smith,
8 without waiving our objections to Topic 5,
9 and 8 to the extent that it incorporates 5,
10 to answer questions on the narrow topic
11 that we discussed at the beginning of that
12 deposition.

13 That narrower topic that's a sub part
14 of five is the procedure that Boston
15 Ventures follows in deciding whether to
16 approve or disapprove a particular theater
17 project.

18 Questions about investment which are
19 otherwise covered by Topic 5, are subjects
20 to which we've objected. If you had --

21 MR. COYLE: You didn't --

22 MS. SHIELDS: -- wished to take up
23 those subject matters, you should have done
24 so more than two days before the

Page 41

Page 39

11 (Pages 38 to 41)

1 deposition.

2 MR. COYLE: Well, you told me on June
3 27th I was going to get more documents.
4 You didn't send me any. Okay. Now --

5 MS. SHIELDS: You were told that if
6 additional documents were located, they'd
7 be produced.

8 MR. COYLE: I'm not going to sit here
9 and argue with you, Counsel. I'm out here
10 for --

11 MS. SHIELDS: I have no interest in
12 arguing with you.

13 MR. COYLE: Well, I'm out here for a
14 deposition. I mean, I'm here in good
15 faith.

16 I just would like to ask
17 Ms. Granville-Smith some questions and then
18 go home; but I don't want to come back out
19 here.

20 MS. SHIELDS: And I don't want you to
21 either.

22 If you'd -- there is a proper
23 procedure for taking up your objections to
24 our response to your subpoena. Those

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1 procedures weren't followed in this case.

2 MR. COYLE: Well, I disagree with you;
3 and I can tell you that Judge Patallion in
4 Omaha is not going to look kindly on the
5 fact that we're playing games.

6 So, I mean, if -- you can't pick and
7 choose and have me make deals about what
8 I'm going to ask the witness or not ask.

9 She was sent a subpoena -- a notice to
10 take her deposition -- duces tecum. We
11 gave you all these items that we asked you
12 to produce somebody to testify about.

13 You've brought this lady here today.
14 I'm sure she's extremely confident. I
15 think she's going to do just fine. I'd
16 like to ask these questions and go home.

17 Now, you want to take a recess and
18 think about it?

19 MS. SHIELDS: Mr. Coyle, there's no
20 need for a recess.

21 I object to your characterization of
22 what happened, and I also object to your
23 discussion about what a judge in Omaha may
24 or may not do in this case.

Page 43

1 The subpoena was properly served in
2 the Massachusetts District Court. If
3 you're interested in addressing these
4 issues, the courthouse is right over across
5 the water there. I'd be happy to do that
6 with you.

7 MR. COYLE: Okay. That's not -- I
8 mean, there's a good faith basis of this,
9 and --

10 MS. SHIELDS: And there's a good -- a
11 very good faith basis to our objections.
12 We can agree to disagree.

13 MR. COYLE: That doesn't surprise me.

14 Why don't you read my question back.
15 We'll see what we can get, and then we'll
16 move on.

17 MS. SHIELDS: Let's do that.

18 MR. COYLE: And I guess the other way
19 we can handle this --

20 COURT REPORTER: I can't read if
21 you're going to keep talking.

22 MR. COYLE: Go ahead.

23 (The question was read back as

Page 44

1 follows:

2 "Now, is there a certain level
3 of equity that Boston Ventures has
4 committed to Rave?"

5 MS. SHIELDS: And I'm going to
6 instruct the witness not to answer that
7 question.

8 MR. COYLE: Kathy, I just want to go
9 through the process of how theaters are
10 approved or not approved; and you've told
11 me that -- that you were going to allow the
12 witness to answer that.

13 So I'm assuming that there's a certain
14 amount of money involved, and they can't
15 finance every theater that somebody wants
16 to build, and I want to take her through
17 that.

18 So if there's X-number of dollars
19 involved, that's just a really simple
20 question.

21 MS. SHIELDS: Why don't we take a
22 break.

23 I'll discuss with Ms. Granville-Smith

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1 whether she feels comfortable in answering
 2 these questions under the circumstances.

3 MS. COYLE: All right. That's fine.

5 (Whereupon, a break was taken in the
 6 proceedings.)

7 BY MR. COYLE:

8 **Q. Ms. Granville-Smith, we took a short
 9 recess. Are you ready to proceed?**

10 A. Yes, I am.

11 **Q. I think before we took a short recess a
 12 question was asked to you as to whether there's a
 13 certain amount of equity that was committed by
 14 Boston Ventures to -- to the Rave Cinemas. Do you
 15 recall that question?**

16 A. Yes, I do.

17 **Q. Okay. Is there a certain amount of money?**

18 A. There is a certain amount of money
 19 committed to Rave; but, upon needs, we can commit
 20 more, if necessary.

21 **Q. Okay. Now, was there a specific year
 22 where that amount of money was -- was committed?**

23 A. Yes.

Page 46

1 **Q. And what year was that?**

2 A. Boston Ventures has made two commitments
 3 to Rave. The first, in or around 1999. The second
 4 was in 2002.

5 MS. SHIELDS: And, for the record, I'm
 6 permitting Ms. Granville-Smith to answer
 7 certain of these questions without waiving
 8 our objections to Topic 5 and 8 in the
 9 subpoena.

10 BY MR. COYLE:

11 **Q. Okay. Now, is there a -- maybe I need to
 12 understand a little better about Boston Ventures.**

13 **When -- your company has people that are
 14 called directors; is that -- is that correct?**

15 A. We have a variety of different job
 16 classifications at Boston Ventures.

17 **Q. Okay. Is there a specific team at Boston
 18 Ventures that works with Rave?**

19 A. Yes.

20 **Q. Okay. And are those the names of people
 21 that you just gave me earlier: Coppedge, Ginader,
 22 Flemming, and yourself?**

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1 A. Yes; that's correct.

2 **Q. Are there others?**

3 A. Prior to 2000, there may have been a
 4 different associate staffed with me on Rave.

5 **Q. Okay. All right. Are you the managing
 6 director?**

7 A. I am a managing director.

8 **Q. Are you the managing director for the Rave
 9 at?**

10 A. No; we work as a team.

11 **Q. Okay. Now, is there -- so -- all right.
 12 Back up.**

13 **So Boston Ventures is a company that
 14 provides equity to invest in these different areas
 15 that you've described.**

16 MS. SHIELDS: Objection.

17 BY MR. COYLE:

18 **Q. I mean, generally, that's what they do.**

19 A. We invest in media, communications,
 20 entertainment, and publishing; all areas of media.

21 **Q. And your first dealings with Rave was in
 22 1999?**

23 Page 48

1 A. We have had business conversations with
 2 members of the Rave management team prior to that.

3 **Q. Okay. But your first equity commitment
 4 was in 1999?**

5 A. In or around 1999.

6 **Q. Okay. Was there a certain amount of money
 7 that was committed in 1999?**

8 A. In or around 1999, we committed a first
 9 installment, yes.

10 **Q. And how much was that?**

11 A. Fifty million dollars.

12 **Q. Okay. Now, in regard to that \$50 million
 13 commitment, was there a protocol that was generally
 14 followed by Boston Ventures and Rave about
 15 individual sites?**

16 MS. SHIELDS: Objection; vague and
 17 ambiguous.

18 BY MR. COYLE:

19 **Q. Do you understand my question?**

20 A. Could you restate it, please.

21 **Q. Well, I take it that you're not going to
 22 build a theater in every, you know, city in America**

23 Page 49

1 **-- I mean Rave.**

2 **I mean, presumably, they are going to seek**
 3 **markets where they think it would be a favorable**
 4 **location to build a theater. Is that, generally, a**
 5 **fair statement?**

6

7 MS. SHIELDS: Objection.

8 MS. MCCREARY: Objection; calls for
 9 speculation.

10 THE WITNESS: I'd like you to ask me
 11 the question; then I'll answer it in my own
 12 words.

13

14 BY MR. COYLE:

15 **Q. Okay. Do you know whether Rave looks for**
 16 **theater opportunities in specific locations?**

17 A. Yes, we look at specific locations.

18 **Q. And are there certain aspects or markets**
 19 **that they -- that they feel are more favorable for**
 20 **building a new theater?**

21

22 MS. SHIELDS: Objection; calls for
 23 speculation.

24 THE WITNESS: There are certain

Page 50

1 aspects, among many, that cause the
 2 management team, and then, subsequently,
 3 the board of managers, to view a site as
 4 attractive.

5

6 BY MR. COYLE:

7 **Q. Okay. Now, when you say management team,**
 8 **is that the management team at Rave?**

9 A. Yes, it is.

10 **Q. And then the board of directors -- or the**
 11 **board of managers would be people from both Rave and**
 12 **Boston Ventures?**

13 A. Yes.

14 **Q. Okay. Do you know what factors they**
 15 **generally look at when they're thinking about going**
 16 **into a specific market?**

17 A. I can name some of the factors. I
 18 certainly can't name all of them.

19 **Q. I understand. What are some of those**
 20 **factors?**

21 A. Competition, market size, market
 22 demographics. That's all that I can recall as I sit
 23 here today.

24 **Q. Now, when does the management team at Rave**

Page 51

1 **actually give a list of -- at what point in the**
 2 **process do they get Boston Ventures involved?**

3

4 MS. SHIELDS: Objection; vague and
 5 ambiguous.

6 THE WITNESS: It depends on a
 7 site-by-site basis.

8

9 BY MR. COYLE:

10 **Q. Okay. But -- okay. And could you explain**
 11 **that for me, please.**

12 **I take it all sites are -- have -- are**
 13 **unique, in some sense?**

14 A. Yes; every site is unique.

15 **Q. Okay. What -- what different factors are**
 16 **involved that have an impact on when Boston Ventures**
 17 **gets involved in the process?**

18

19 MS. MCCREARY: Objection. Lacks
 20 foundation. Calls for speculation.

21 MS. SHIELDS: Same objection.

22 THE WITNESS: Every site is unique. I
 23 can't possibly put a structure around it.

Page 52

1 BY MR. COYLE:

2 **Q. Just give me a general procedure.**

3

4 MS. MCCREARY: Objection; asked and
 5 answered. It's badgering.

6 MS. SHIELDS: Same objection.

7 THE WITNESS: Shall I answer?

8

9 MS. SHIELDS: If you can answer the
 10 question.

11 THE WITNESS: In very general terms,
 12 the management team at Rave reviews many
 13 sites. At any time, we could have five to
 14 ten sites in different levels of analysis
 15 and diligence.

16 At some point during the analysis of a
 17 site, the Rave management team makes a
 18 determination that they want to go forward
 19 with the site; and they will bring an
 20 approval book to the board of managers.

21 BY MR. COYLE:

22 **Q. And that board of managers would be the**
 23 **board of managers at Boston Ventures?**

Page 53

1 MS. SHIELDS: Objection.
 2 THE WITNESS: It's the board of
 3 managers at Rave Motion Pictures.
 4

5 BY MR. COYLE:

6 **Q. Okay. But there are -- for example,**
 7 **you're one of those board of managers?**

8 A. Yes, I am.

9 **Q. Okay. And some of your colleagues are on**
 10 **that board of managers as well?**

11 A. Yes.

12 **Q. Would that be Mr. Coppedge?**

13 A. He is on the board, yes.

14 **Q. And is Ms. Ginader?**

15 A. Ms. Ginader is on the board, yes.

16 **Q. Okay. Have there been other people on the**
 17 **board at any given time from Boston Ventures?**

18 A. Not from Boston Ventures, no.

19 **Q. Okay. All right. Let me see if I**
 20 **understand this, then.**

21 **Rave Reviews Cinemas is a separate entity,**
 22 **isn't it?**

24 MS. SHIELDS: Objection; calls for

Page 54

1 speculation.

2 MS. MCCREARY: I object. It's outside
 3 the scope of the subpoena and as designated
 4 therein.

5 THE WITNESS: Should I answer?

6 MS. SHIELDS: If you can. This is in
 7 that area where we're permitting you to
 8 answer questions if you're comfortable with
 9 them despite -- despite and without waiving
 10 our objections to Topics 5 and 8.

11 THE WITNESS: To the best of my
 12 knowledge, up to this point, we've never
 13 had different ownership structures on a
 14 site-by-site basis.

16 BY MR. COYLE:

17 **Q. And I'm -- you've never had different**
 18 **ownership structures on a site-by-site basis. I'm**
 19 **sorry, I don't know what that means. Could you**
 20 **describe that for me.**

21 A. To the best of my knowledge, we have -- we
 22 have not set different ownership structures for each
 23 site. We've never done that, to the best of my
 24 knowledge, up to this point.

Page 56

1 legal conclusion.

1 **Q. Okay. Are all of the different sites**
 2 **subsidiaries of Rave?**

4 MS. SHIELDS: Objection; calls for a
 5 legal conclusion.

6 THE WITNESS: To the best of my
 7 knowledge, as I sit here today, I believe
 8 that all of the sites are in subsidiary
 9 entities.

10 BY MR. COYLE:

11 **Q. Of Rave?**

12 A. Of Rave, yes.

13 **Q. Okay. And then Boston Ventures has an**
 14 **ownership interest in Rave, the parent company?**

15 A. Yes.

16 **Q. Okay. Do you own all of the common stock?**

17 MS. SHIELDS: Objection.

18 THE WITNESS: No.

19 BY MR. COYLE:

20 **Q. Do you have a majority interest?**

21 MS. SHIELDS: Objection; calls for

Page 55

Page 57

1 MS. SHIELDS: Objection.
 2 THE WITNESS: We own a majority of the
 3 stock in the company.

4
 5 BY MR. COYLE:

6 **Q. Okay. Now, Boston Ventures, then, has**
 7 **voting control at Rave?**

8
 9 MS. SHIELDS: Objection; calls for a
 10 legal conclusion. You can answer if you
 11 can.

12 THE WITNESS: On certain items within
 13 the governance of the company, we have
 14 voting control.

15
 16 BY MR. COYLE:

17 **Q. Okay. Which items are those?**

18
 19 MS. SHIELDS: Objection.

20 THE WITNESS: I can't recall all the
 21 items as I sit here today. Quite a few.

22
 23 BY MR. COYLE:

24 **Q. New sites?**

Page 58

1 MS. SHIELDS: Objection.

2 THE WITNESS: The signing of leases is
 3 one of the items within our control.

4
 5 BY MR. COYLE:

6 **Q. Okay. And I take it that when you talk**
 7 **about the signing of leases, how these different --**
 8 **all of the Rave theater sites involve leases; isn't**
 9 **that a fair statement?**

10
 11 MS. SHIELDS: Objection.

12 THE WITNESS: Your question is a bit
 13 rambley. So --

14
 15 BY MR. COYLE:

16 **Q. It's not intended to be. In other words,**
 17 **if -- If Rave's going to open a new theater, then --**
 18 **then they're going to sign a lease; isn't that**
 19 **correct?**

20
 21 MS. SHIELDS: Objection; calls for
 22 speculation.

23 THE WITNESS: It really depends upon
 24 the financing mechanism or the opportunity.

1
 2 I can imagine a situation where the
 3 company was building from ground up and
 4 didn't sign a lease at all.

5
 6 BY MR. COYLE:

7 **Q. I understand. But, generally, it --**
 8 **barring that circumstances that you've just**
 9 **described, each new site would involve the execution**
 10 **of a lease.**

11
 12 MS. SHIELDS: Objection; calls for
 13 speculation, asked and answered.

14 MS. MCCREARY: Lacks foundation.

15 THE WITNESS: Shall I answer?

16 MS. SHIELDS: If you can.

17 THE WITNESS: In some of the Rave
 18 Cinemas, there is a lease arrangement with
 19 the landlord.

20
 21 BY MR. COYLE:

22 **Q. Okay. Do all the existing Rave sites have**
 23 **leases?**

24 MS. SHIELDS: Objection. It's beyond

Page 60

1 the scope of the subpoena. You can answer
 2 if you can.

3 MS. MCCREARY: Objection; foundation.

4 THE WITNESS: I don't know.

5
 6 BY MR. COYLE:

7 **Q. Can you -- as you sit here today, can you**
 8 **think of any Rave site that does not have a lease?**

9
 10 MS. MCCREARY: Objection.

11 MS. SHIELDS: Objection.

12 MS. MCCREARY: Lacks foundation.

13 MS. SHIELDS: Same objection.

14 THE WITNESS: Certain of our sites
 15 have sale-leaseback transactions with a
 16 third-party financing source.

17
 18 BY MR. COYLE:

19 **Q. Okay. But barring that relationship, all**
 20 **the sites have a lease?**

21
 22 MS. SHIELDS: Objection.

23 THE WITNESS: I believe that element
 24 confuses your question.

Page 61

1 BY MR. COYLE:

2 Q. Well, I mean, it's -- it's really more
3 simple than that.
4 If -- if Boston Ventures is going to put
5 equity in a Rave -- a new Rave theater site and Rave
6 has to sign a lease, Boston Ventures gets to approve
7 that.

8 MS. SHIELDS: Objection; compound.

9 THE WITNESS: Your question is also
10 incorrect.

11 BY MR. COYLE:

12 Q. Okay. Well, let's go back. Let's go back
13 to -- because I think we're getting down to minutia
14 here, and it's -- I'm not intending it to make it
15 any more complicated than it is.

16 The Rave management team goes out and
17 looks at potential sites, as a general rule;
18 correct?

19 A. Yes.

20 Q. And at some point in the process after
21 they've looked at different sites, they will conduct
22 a certain due diligence as to whether that would be

Page 62

1 a prudent site to build a new theater.

2 MS. MCCREARY: Objection; calls for
3 speculation, lacks foundation.

4 THE WITNESS: They conduct an analysis
5 and diligence process to determine whether
6 or not they want to propose a site to the
7 board of managers.

8 BY MR. COYLE:

9 Q. Okay. And -- and so to the extent that
10 they've looked at a site that they ultimately
11 conclude on their own they may or may not be
12 interested in, then the board of managers from
13 Boston Ventures might not ever even know about it?

14 MS. MCCREARY: Objection.

15 MS. SHIELDS: Objection.

16 MS. MCCREARY: Lacks foundation; calls
17 for speculation.

18 MS. SHIELDS: Same objection.

19 THE WITNESS: Could you read back the
20 question, please.

21 (The question was read back as
22 follows:

23 "And so to the extent that
24 they've looked at a site that they
ultimately conclude on their own they
may or may not be interested in, then
the board of managers from Boston
Ventures might not even know about
it.")

25 MS. MCCREARY: Preserve the
26 objections, please.

27 MS. SHIELDS: Preserve the objections,
28 please.

29 THE WITNESS: In the development
30 efforts at Rave, there is always a deep
31 pipeline of sites that they are working on
32 which may or may never rise up to the
33 approval process with the board of
34 managers.

35 BY MR. COYLE:

36 Q. Okay. Let's take a look at Exhibit Number
37 2. Right here. Let's go to page BV 002.

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1 First of all, can you identify that
2 document?

3 A. As I sit here today, I know what this is;
4 but I don't recall receiving it.

5 Q. Okay. But this is a document that -- it
6 was in the -- it was, obviously, in the possession
7 of Boston Ventures?

8 A. That's right.

9 Q. And it looks to me like that -- that there
10 is another page to this. It says Theater Pipeline,
11 and it starts with Number 7. See that there at the
12 top?

13 A. Yes; I see Number 7 at the top.

14 Q. So, presumably, there's another page
15 that's got sites 1 through 6 on it?

16 MS. SHIELDS: Objection; calls for
17 speculation.

18 THE WITNESS: Actually, 1 through 6
19 are the open and operating cinemas. It
20 says that at the top of the page.

21 BY MR. COYLE:

22 Q. Okay. And then the theater pipeline is --

Page 65

1 **is 7 through 18. These are different theaters that
2 -- well, tell me what these are.**

3 A. These are the names of different theaters
4 that the company was working on at that time as
5 potentials.

6 **Q. Okay. When you say the company, that
7 would be Rave or Boston Ventures?**

8 A. No; always Rave when I'm saying the
9 company.

10 **Q. Okay. So as of the date of this document,
11 September 10, 2002, these are different potential
12 theater sites that -- that Rave is looking at?**

13 MS. MCCREARY: Objection. Misstates
14 her testimony.

15 MS. SHIELDS: Same objection.

16 THE WITNESS: What I said was that
17 these are cinemas -- potential cinema sites
18 that are in various stages of development
19 and analysis that they were looking at at
20 that time.

23 **BY MR. COYLE:**

24 **Q. Well, now, the date of this document is**

Page 66

1 **September 10 of 2002. Do you see that?**

2 A. I do see that.

3 **Q. Okay. Let's go back to page BV 001. Can
4 you identify this document?**

5 A. I've already told you what this document
6 is earlier.

7 **Q. Oh, I'm sorry. Is this a board of
8 managers meeting agenda?**

9 A. That's what it says on the top of the
10 page.

11 **Q. Okay. Did you actually go to this
12 meeting?**

13 A. I can't recall whether or not I was at
14 this meeting or not.

15 **Q. Okay. Would it be your normal routine to
16 attend such meetings?**

17 A. Yes.

18 **Q. Okay. And these --**

19 A. In most cases, I am at these meetings.

20 **Q. All right. Do these take place here in
21 Boston or -- or at Rave?**

22 A. They take place at various locations
23 throughout the country.

24 **Q. Okay. Do you know where this meeting took**

1 **place?**

2 A. No; I can't recall where this meeting took
3 place.

4 **Q. And the -- what was discussed at the
5 meeting on September 11th of 2002 is set forth on
6 Exhibit 2 on page BV 001?**

8 MS. SHIELDS: Objection.

9 MS. MCCREARY: Object to the form;
10 lacks foundation; calls for speculation.

11 MS. SHIELDS: Same objection.

12 THE WITNESS: As I said before, I
13 don't recall being at the meeting. This
14 appears to be the agenda for that meeting.

16 **BY MR. COYLE:**

17 **Q. Okay. And is this a typical agenda for
18 your board of managers meetings?**

20 MS. SHIELDS: Objection.

21 THE WITNESS: This agenda sets out the
22 topics we typically talk about, among
23 others, at our board of manager meetings.

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1 **BY MR. COYLE:**

2 **Q. Okay. And, presumably, this page BV 002
3 was part of the agenda on the first page?**

5 MS. SHIELDS: Objection; calls for
6 speculation.

7 MS. MCCREARY: Objection. Lacks
8 foundation, calls for speculation, assumes
9 facts not in evidence.

10 THE WITNESS: I have no way of making
11 that determination.

13 **BY MR. COYLE:**

14 **Q. Well, it talks about timetables and an
15 overview, and it mentions all of these different
16 sites: Chattanooga, Baton Rouge, Cincinnati. See
17 where it says that?**

18 A. On which page, please?

19 **Q. On page BV 001.**

20 A. Yes, I see that.

21 **Q. Okay. And it's dated September 11th,
22 2002, and the second page is dated September 10th of
23 2002.**

24 **So is it -- were these different sites**

Page 69

1 reviewed at this meeting on September 11th of 2002?

2 MS. SHIELDS: Objection.

3 MS. MCCREARY: Objection. Calls for
4 speculation, lacks foundation, asked and
5 answered.

6 THE WITNESS: I have answered that
7 question.

8 My answer is I don't know if these two
9 pages go together or not.

10 BY MR. COYLE:

11 Q. Okay. But you and I can agree that these
12 are true and accurate copies of records that exist
13 in Boston Ventures' files?

14 A. Yes.

15 Q. Okay. And I take it that these are --
16 somebody files them, and you were able to access
17 them as a result of -- of somebody asking you to
18 look for them?

19 A. Upon request of the subpoena, I reviewed
20 the files. This is what I found.

21 Q. Okay. Now, is it typical, then, to have
22 this theater pipeline document discussed at these

Page 70

1 board of managers meetings?

2 MS. MCCREARY: Objection.

3 MS. SHIELDS: Objection.

4 THE WITNESS: At our board of managers
5 meetings, we typically discuss potential
6 deals.

7 BY MR. COYLE:

8 Q. Okay. And -- and this is not -- I mean,
9 this is a lot more simple.

10 You've got this board of -- you've got
11 this agenda meeting. You got all these different
12 sites listed on here. Okay. And then you've got
13 this document that says theater pipeline.

14 Now, there's writing on this particular
15 document; do you see that -- BV 002?

16 A. Yes, I see the writing.

17 Q. Can you identify that? Is that your
18 handwriting?

19 A. As I sit here today, it looks to me that
20 is my handwriting.

21 Q. Okay. And on the page in front of it,
22 it's got -- it's got some handwriting. Does that

Page 71

1 also appear to be your handwriting?

2 A. As I sit here today, that looks to me to
3 be my handwriting, yes.

4 Q. Okay. Does that refresh your recollection
5 that you were actually at the meeting?

6 A. No. I can not specifically recall being
7 at this meeting. It was more than three years ago.
8 It was almost three years ago.

9 Q. I understand that. But would it be a fair
10 inference that by virtue of the fact that your --
11 your handwritten notes are on here, that you
12 attended the meeting; specifically, with the times
13 of the different presentations?

14 MS. MCCREARY: Object to the form.
15 It's badgering. She's testified as to her
16 recollection in attendance -- whether she
17 attended that meeting or not. You're
18 asking her to speculate --

19 MR. COYLE: All right. No speaking
20 objections, please, Counsel.

21 MS. MCCREARY: Excuse me. Let me
22 finish my objection.

23 MR. COYLE: No; stop. Let's just move

Page 72

1 on.

2 MS. MCCREARY: You're asking this
3 witness to speculate.

4 MR. COYLE: No, I'm not. I'm asking
5 her questions. Now, just stop
6 interrupting.

7 MS. SHIELDS: Join.

8 BY MR. COYLE:

9 Q. It's got your notes on it. Is it probably
10 a fair inference that you attended the meeting?

11 MS. MCCREARY: I object to the
12 question. It calls for speculation. It's
13 asking this witness to guess. She's asked
14 and answered the question.

15 THE WITNESS: I really don't want to
16 speculate on this.

17 BY MR. COYLE:

18 Q. Okay. So are you telling the judge and
19 the ladies and gentlemen of the jury that
20 notwithstanding your handwritten notes with specific
21 times of presentations, it's your testimony that you

Page 73

1 don't recall being at this meeting?

2
3 MS. SHIELDS: Objection; asked and
4 answered.

5 THE WITNESS: I have answered this
6 question.

7 I do not recall being at this meeting.
8 I may have been. I can't recall it. It's
9 more -- it's almost three years ago.

10 BY MR. COYLE:

11 **Q. Okay. But it is your normal practice to**
12 **attend these meetings?**

13 A. I normally try to be at the meetings, yes.

14 **Q. All right. Now, at these meetings, the**
15 **theater pipeline is discussed, typically; isn't it?**

16 MS. MCCREARY: Object to the form.

17 Lacks foundation; calls for speculation;
18 and it's leading.

19 THE WITNESS: At the board of manager
20 meetings, the theater pipeline is one of
21 the topics that is generally discussed.

22 Page 74

1 for speculation.

2 THE WITNESS: As I said before, I
3 don't recall this meeting. I can't recall
4 what those A's mean.

5 BY MR. COYLE:

6 **Q. And is it your testimony that you can't**
7 **even give us your best recollection of what you**
8 **think that means?**

9 MS. SHIELDS: Objection; asked and
10 answered.

11 THE WITNESS: Recollection would be
12 the wrong word.

13 BY MR. COYLE:

14 **Q. So you don't have -- you just don't have**
15 **any idea what it means?**

16 A. I can have an idea of what it means.

17 **Q. Okay. That's what I'm looking for.**

18 MS. MCCREARY: Objection; calls for
19 speculation.

20 MS. SHIELDS: Same objection.

21 Page 76

22 BY MR. COYLE:

23 **Q. Okay. Now, on page BV 002, there's**
24 **writings "A". See that?**

25 A. Yes, I see that.

26 **Q. What -- what does that mean?**

27 A. I don't recall specifically what that
means.

28 **Q. What would be your best estimate as to**
29 **what it means?**

30 A. I don't think I should speculate about
31 that.

32 **Q. Well, nobody wants you to, but you can --**
33 **nobody wants you to guess, but you can give us your**
34 **best recollection.**

35 MS. MCCREARY: Objection. She's --

36 BY MR. COYLE:

37 **Q. And as long as it's couched in the fact**
38 **that it's -- it's your best recollection, then you**
39 **can answer the question.**

40 MS. MCCREARY: Objection. She hasn't
41 testified as to her recollection. It calls

1 THE WITNESS: You want me to --

2 MS. SHIELDS: If you can answer the
3 question, you can.

4 THE WITNESS: Okay. I want to be
5 clear I have no specific recollection; but
6 as I sit here today, I can make an estimate
7 guess of what that means.

8 BY MR. COYLE:

9 **Q. Okay. Go ahead.**

10 A. I --

11 MS. SHIELDS: If you're guessing, I
12 would caution the witness not to guess.
13 Guessing is not proper.

14 BY MR. COYLE:

15 **Q. Nobody wants you to guess, but what --**

16 A. I have an educated opinion of what I think
17 it means.

18 **Q. Okay. Please, then, go ahead and answer.**

19 A. But it is not a specific recollection.

20 **Q. I understand.**

21 A. I believe that it means that the site has

22 Page 77

23 20 (Pages 74 to 77)

1 been reviewed by the board of managers.

2 **Q. Okay. And when you say the board of
3 managers, that would be the board of managers of
4 Boston Ventures?**

5 A. No, no.

7 MS. SHIELDS: Objection.

8 THE WITNESS: Rave.

10 BY MR. COYLE:

11 **Q. Okay. And when you say that that means
12 that -- what does that mean; that they have actually
13 been out there or they've done some kind of due
14 diligence?**

15 A. For a site to be approved by the board of
16 managers of Rave, the management team would have
17 completed the majority of its analysis and
18 assessment of the site and have prepared a
19 substantial board approval package for our review.

20 **Q. Okay. Would that be the approval book
21 that you talked about?**

22 A. That's good, yes.

23 **Q. Okay. And would that -- would "A" stand
24 for approval book, then?**

Page 78

1 **meetings?**

2 A. No, I do not.

3 **Q. Who does?**

4 A. We don't have a specific chairperson.

5 **Q. Okay. Who prepares the agenda?**

7 MS. MCCREARY: Can we take a break for
8 a minute after these questions, please,
9 Mr. Coyle?

10 MR. COYLE: Yeah; let me finish this
11 line of questioning, Counsel.

12 MS. MCCREARY: Thanks.

13 THE WITNESS: I don't know who
14 specifically puts the agenda -- types it
15 up, puts it together.

17 BY MR. COYLE:

18 **Q. Would it be somebody at Boston Ventures?**

19 A. No. I do not put the agenda together, but

20 I can ask for topics be put on the agenda.

21 **Q. Okay. So at this meeting, then, on
22 September 11, 2002, were the -- would the approval
23 book, then, have been gone through for the ones
24 where the approval book had been put together?**

Page 80

1 MS. SHIELDS: Objection; calls for
2 speculation.

3 THE WITNESS: Yeah; I'd be
4 speculating.

5 BY MR. COYLE:

6 **Q. Okay. So let's go back to this board of
7 managers meeting of Rave. How often would you have
8 these meetings?**

9 A. We typically have our meetings quarterly,
10 with interim telephonic conference calls, if
11 necessary.

12 **Q. Okay. So there would be other of these
13 quarterly agenda meeting minutes?**

14 MS. SHIELDS: Objection; calls for
15 speculation.

16 MS. MCCREARY: Lacks foundation.

17 THE WITNESS: As I sit here today,
18 most of our manager meetings would have
19 agendas to them.

20 BY MR. COYLE:

21 **Q. Okay. Do you -- do you chair the**

1 MS. MCCREARY: Objection.

2 MS. SHIELDS: Objection.

3 MS. MCCREARY: Lacks foundation; calls
4 for speculation as to this witness's
5 knowledge as to what that means.

6 THE WITNESS: Yeah; I mean, I don't
7 recall this meeting, I'm telling you.

8 BY MR. COYLE:

9 **Q. I understand. But if -- if there was a
10 site that had reached the point where the approval
11 book had been put together, would this be the type
12 of meeting where it would be approved by Boston
13 Ventures?**

14 MS. SHIELDS: Objection; calls for
15 speculation.

16 THE WITNESS: Approval books are
17 sometimes a topic at our board of managers
18 meetings.

19 BY MR. COYLE:

20 **Q. Okay. So, conceivably, if they had the
21 approval books together, they've completed their due**

Page 79

Page 81

1 **diligence and they were ready to -- to take it to
2 Boston Ventures, it could be decided whether to
3 approve it or not to approve it at one of these
4 board of managers meetings?**

5 MS. MCCREARY: Object to the form.
6 It's leading. It assumes facts not in
7 evidence. It calls for speculation on the
8 part of this witness.

9 MS. SHIELDS: Same objection.

10 THE WITNESS: I think you're going to
11 have to break that question down.

12 MR. COYLE: Is that form or
13 foundation, Lynn? I guess I just can't
14 tell. You know, it's just so bothersome.
15 Please read the question back.

16 THE WITNESS: I just don't understand
17 what you're saying.

18 MR. COYLE: No, no. I think you
19 understand just fine. I think the problem
20 is, is you're getting a speaking objection
21 from Lynn and then you're afraid to answer
22 the question. You're doing fine.

23 Please read the question back.

24 Page 82

1 MS. MCCREARY: The rules may be
2 bothersome, Mr. Coyle, but the rules are
3 the rules.

4 MR. COYLE: Oh, please, they are not.
5 We'll show these to the judge.

6 (The question was read back as
7 follows:

8 "So, conceivably, if they had
9 the approval books together, they've
10 completed their due diligence and
11 they were ready to take it to Boston
12 Ventures, it could be decided whether
13 to approve it or not to approve it at
14 one of these board of managers
15 meetings?"

16 MS. MCCREARY: Same objection.

17 THE WITNESS: I'm not going to answer
18 the question to the specifics of the
19 September 2002 meeting because I do not
20 recall that meeting.

21 In general, at board of managers
22 meetings or on interim telephonic

1 conference calls, we approve and review
2 board approval books.

3
4 BY MR. COYLE:

5 **Q. Okay. And once the board approval book is
6 approved, then the process can move forward to the
7 execution of a lease?**

8 A. It's a little more complicated than that.

9 **Q. But, generally, that would be the process?**

10
11 MS. SHIELDS: Objection.

12 THE WITNESS: The process is we review
13 board books. It takes a series of
14 conference calls, questioning, and analysis
15 by the Board.

16 In some cases, there are subsequent
17 diligence trips out to look at the site.

18 In some cases, we modify.

19 And then it moves in to lease
20 negotiations, which then takes a
21 considerable amount of time.

22
23 BY MR. COYLE:

24 **Q. Okay. But you'll never get to the lease**

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1 **part of the game until after you've gone through the
2 approval process that you've just described.**

3
4 MS. MCCREARY: Objection; lacks
5 foundation, calls for speculation, assumes
6 facts not in evidence.

7 MS. SHIELDS: Objection. I believe it
8 misstates Ms. Granville-Smith's testimony.

9 THE WITNESS: It does misstate what I
10 just said.

11
12 BY MR. COYLE:

13 **Q. I understand. I'm just -- but -- I think
14 what you're telling me is, is that there's a --
15 there's a procedure that might have -- you might
16 have more questions; you might want them to look up
17 additional information.**

18 **But, eventually, there is an approval
19 process; and once that's completed, then it would
20 move to, you know, lease negotiations and execution.
21 Is that a fair statement?**

22
23 MS. MCCREARY: Objection. It calls
24 for speculation; assumes facts not in

Page 85

1 evidence.

2 MS. SHIELDS: Same objection.

3 THE WITNESS: I don't know how the
4 management team at Rave manages the lease
5 process.

6 I don't think it's typical for each
7 site. I think it's highly dependent upon
8 each particular site.

1 general -- the process here; and I understand that
2 there might be a difference here and a difference
3 there.

4 But, generally, this due diligence on
5 these different sites is done by Rave; and then,
6 eventually, it reaches a process where they think if
7 it's a site that's suitable for Boston Ventures to
8 consider, they put together this approval book, and
9 then you look at that particular site. Is that,
10 generally, a fair statement?

11 MS. MCCREARY: Object to the form. It
12 assumes facts not in evidence; calls for
13 speculation; vague.

14 THE WITNESS: I would like to restate,
15 in my words, how it works.

16 BY MR. COYLE:

17 Q. Okay. Go ahead.

18 A. Not agreeing to your words, necessarily.
19 As I sit here today, the approval process works as
20 such:

21 The management team of Rave reviews many
22 sites. When they find a site that they believe

Page 88

23 BY MR. COYLE:
24 Q. Well, I'm just trying to get a general

procedure, and then I'm going to go back and ask you

Page 86

1 some specifics.

2 A. But I don't want incorrect facts to be on
3 the record.

4 Q. I understand.

5 A. But you keep saying it.

6 Q. Well, just -- how am I incorrect?

7 A. Can I?

8 MS. SHIELDS: That's not a proper
9 question. You can ask questions that the
10 witness can answer.

11 MR. COYLE: I mean, Kathy, I'm trying
12 to move this as quickly -- this is a very
13 sophisticated person.

14 I mean, I think that if we just let
15 her, she'll tell me the answer. I mean,
16 she really -- she knows more about this
17 than I do.

18 MS. SHIELDS: Mr. Coyle, depositions
19 have rules. We're going to follow the
20 rules of the deposition.

21 BY MR. COYLE:

22 Q. Okay. I mean, I'm just trying to get the

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1 merits being in the Rave portfolio and they have
2 completed the majority of their analysis and
3 diligence on the opportunity, they bring it to the
4 attention of the board of managers.

5 Q. All right. How many people are on the
6 board of managers?

7 A. As I sit here today, I believe it's five.

8 Q. And three of those board of managers would
9 be from Boston Ventures?

10 A. Yes.

11 Q. Okay. Was a approval book presented by
12 the Rave management team to the board of managers
13 for the site in Omaha, Nebraska?

14 A. No, it was not.

15 Q. Now, are -- can there be sites on the
16 theater pipeline -- and looking at this list of 7
17 through 18 -- where the Rave management team could,
18 on their own, decide that it's not something they
19 want to present to the board of managers of Boston
20 Ventures?

21 MS. MCCREARY: Object to the form.
22 Calls for speculation and lacks foundation.

23 MS. SHIELDS: Object; vague.

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1 THE WITNESS: I think it's complicated
 2 the way you phrased it. I'll answer it in
 3 my own words.

4 The management team decides to pursue
 5 or not pursue sites based upon their own
 6 analysis. Only when they decide they want
 7 to pursue a site and bring it to the board
 8 of managers are we notified.

9
 10 BY MR. COYLE:

11 Q. And -- and it's your testimony that the
 12 Rave Reviews Cinemas never brought the Omaha,
 13 Nebraska theater complex to the board of managers
 14 for Boston Ventures for their approval?

15 A. As I said earlier today, I knew about
 16 Omaha; that they were looking at it. It was never
 17 brought for approval to the board of managers.

18 Q. Was it -- so is it your testimony that
 19 Boston Ventures -- well, let me back up.

20 Has a -- has a theater project site been
 21 brought to the board of managers of Boston Ventures
 22 where they've -- they've made a decision not to
 23 invest?

24 Page 90

1 MS. SHIELDS: Objection; calls for
 2 speculation. It's beyond the scope of the
 3 subpoena. I'll permit Ms. Granville-Smith
 4 to answer the question.

5 THE WITNESS: Okay. One point: You
 6 keep saying -- your terminology is
 7 incorrect, and I want to make sure it's
 8 clear for the record.

9 MR. COYLE: Okay.

10 THE WITNESS: Board of managers of
 11 Rave.

12
 13 BY MR. COYLE:

14 Q. I understand.

15 A. Okay. But please be clear.

16 Q. Thank you. So has there ever been a -- a
 17 site that's been brought to the board of managers
 18 that they decided not to pursue?

19 A. As I said earlier today, we spend a lot of
 20 time on the approval books and make modifications
 21 about sites.

22 I can not recall, as I sit here today, a
 23 specific site that was vetoed. But, certainly, many
 24 sites have been modified or put on the back burner

1 for periods of time as we prioritized the needs of
 2 the company.

3 Q. Okay. Were you ever presented with an
 4 approval book on the Omaha theater?

5 A. No, I was not.

6 Q. Is it your testimony that no such approval
 7 book was ever submitted to the board of managers?

8 A. To the best of my knowledge, I do not
 9 believe any approval book was ever submitted to the
 10 board of managers.

11 Q. Do you -- do you know why no approval book
 12 was ever submitted to the board of managers
 13 regarding the proposed Rave site in Omaha, Nebraska?

14
 15 MS. SHIELDS: Objection; calls for
 16 speculation.

17 THE WITNESS: I would have to
 18 speculate. It wouldn't be within my
 19 knowledge base.

20
 21 BY MR. COYLE:

22 Q. Well, I mean, it's on your list. I take
 23 it you work with these people every day.

24 Did you ever say to Tom, Hey, what

Page 92

1 happened to Omaha?

2 A. I have vague recollection of a
 3 conversation with the management team asking them
 4 about Omaha.

5 Q. Okay. And who did you have that
 6 conversation with?

7 A. My vague recollection is that Tom
 8 Stephenson was present, and others may have been.

9 Q. What others? Bob Painter?

10 A. I can not give you a specific. It's a
 11 vague recollection.

12 Q. Was it a person -- I take it that it was
 13 an in person meeting?

14 A. It was an in person conversation.

15 Q. Okay. What is your recollection about
 16 what you were told about Omaha?

17 A. As I sit here today, my vague recollection
 18 is that he told me, upon my inquiry, that the Omaha
 19 site had become less attractive.

20 Q. Did he say why?

21 A. There may have been a variety of items;
 22 but my recollection, as I sit here today, that among
 23 many issues, one of the issues was increased
 24 competition within the marketplace.

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1 **Q. Did he tell you anything else?**
 2 A. As I said to you earlier, this is my vague
 3 recollection. There may have been other items.
 4 **Q. When would that conversation have taken**
 5 **place?**
 6 A. I can not recall.
 7 **Q. Where would that conversation have taken**
 8 **place?**
 9 A. I can not recall.
 10 **Q. Would you typically see Stephenson at a**
 11 **board of managers meeting? Is that -- is that the**
 12 **normal place you'd see him?**
 13 A. I see Tom Stephenson in many environments;
 14 not just board of managers meetings.
 15 **Q. Is there anything that you could look at**
 16 **to refresh your recollection of when you had this**
 17 **conversation with Mr. Stephenson?**
 18 A. No, I don't believe so.
 19 **Q. But there's no question in your mind that**
 20 **this -- the information that you have this**
 21 **recollection about was reported to you by Tom**
 22 **Stephenson?**
 23 A. My recollection is that Tom Stephenson --
 24 the conversation was between me and Tom Stephenson

Page 94

1 A. Yes, I am.
 2 **Q. I want to go back to this approval book --**
 3 **this approval process. Okay.**
 4 Now, is there information that you -- that
 5 is -- you typically see in an approval book?
 6
 7 MS. SHIELDS: Objection.
 8 THE WITNESS: Yes, there is typical
 9 information in an approval book.
 10 Some sites may require specific
 11 additional information.
 12
 13 BY MR. COYLE:
 14 **Q. What kind of -- what kind of information**
 15 **would you typically see in an approval book?**
 16 A. As I said earlier today, among other
 17 things, there would be a description of the
 18 opportunity; description of the market, including
 19 demographics, size; a description of the competitive
 20 situation; and, typically, a description of the
 21 potential lease terms.
 22 The approval book might include maps,
 23 among other things.
 24 **Q. What do you call the -- is there some kind**

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1 and potentially other members of the management
 2 team; but I can't specifically recall who else may
 3 have been a party to the conversation.
 4 **Q. Do you know who else was there?**
 5 A. As I said to you before, I don't
 6 specifically recall the circumstances.
 7 **Q. Any other knowledge that you have about**
 8 **the timing of this conversation?**
 9 A. No, I'm sorry. I don't recall when it
 10 occurred.

11 MS. MCCREARY: Mike, can we take a
 12 break? I'd appreciate one now.

13 MR. COYLE: Okay. Before I lose my
 14 train of thought. Would you like to take a
 15 recess? That's fine. Let's go.

16 THE WITNESS: I would, please.

17 (Whereupon, a break was taken in the
 18 proceedings.)

19 BY MR. COYLE:

20 **Q. Ms. Granville-Smith, we took a recess.**
 21 **Are you ready to proceed?**

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1 **of proforma financial? What do you call that?**
 2 **I mean, I take it that there's some**
 3 **numbers -- analysis of projections of revenue and**
 4 **things of that nature. What do you call those? Is**
 5 **that an FY?**

6
 7 MS. SHIELDS: Objection; calls for
 8 speculation.

9
 10 BY MR. COYLE:

11 **Q. What is the term? Is there a term you use**
 12 **for that or --**

13
 14 MS. SHIELDS: Assumes facts not in
 15 evidence.

16 THE WITNESS: I really don't
 17 understand what you're asking me.

18
 19 BY MR. COYLE:

20 **Q. Is there -- is there some type of -- of**
 21 **projections of revenue?**

22
 23 MS. MCCREARY: Objection as vague;
 24 assumes facts not in evidence.

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1 THE WITNESS: In our approval books,
 2 there would typically be an assessment of
 3 the level of attendance expected to be
 4 generated by the potential cinema, which
 5 would then translate into a revenue
 6 expectation.

7
 8 BY MR. COYLE:

9 **Q. Okay. Now, let's go back to some of the**
 10 **other things you described for me.**

11 **A lease: Would you see a lease in your --**
 12 **In your approval book?**

13 A. The approval books typically have, but not
 14 all of them, but they would typically include the
 15 economic terms that the management team believed
 16 they could get from the developer.

17 **Q. Okay. And would you -- and those are --**
 18 **the economic terms you'd get from the developer,**
 19 **would you, on occasion, see, then, an actual lease?**

20
 21 MS. SHIELDS: Objection.

22 THE WITNESS: As I sit here today, I
 23 don't recall a situation where I saw a
 24 lease at the time of the approval. It

Page 98

1 potentially unique timetables.

2 And what I said earlier is that
 3 typically the lease negotiations occur
 4 after we have an approved deal that has
 5 gone through the board of managers approval
 6 process.

7
 8 BY MR. COYLE:

9 **Q. Okay. Now, when you talk about economic**
 10 **terms from the developer -- and, again, I understand**
 11 **that each particular site might have some --**
 12 **something unique about it -- will -- will the board**
 13 **of Rave ever look at the proposed terms from a**
 14 **developer and say, Hey, we need -- you know, we**
 15 **don't like these terms, see if you can go back and**
 16 **get this, this, and this.**

17 **Would that be unusual for you to have**
 18 **something like that?**

19
 20 MS. SHIELDS: Objection; calls for
 21 speculation, and compound.

22 MS. MCCREARY: Objection as to
 23 definition of board. It's vague.

24 THE WITNESS: As I said earlier today,

Page 100

1 typically occurs much later.

2
 3 BY MR. COYLE:

4 **Q. Okay. And what do you mean it typically**
 5 **occurs much later -- the lease? Could you describe**
 6 **that for me, please; explain.**

7 A. What typically occurs is the management
 8 team determines what they believe the economics to
 9 be of the lease and the terms of that lease; but we
 10 wait until we have approval by the Board before
 11 launching into very detailed lease negotiations.

12 That's the way it typically works. But,
 13 again, each deal is different.

14 **Q. Well, when you say each -- I understand**
 15 **every -- every site has some unique factors**
 16 **associated with it; is that what you're saying?**

17
 18 MS. MCCREARY: Objection.

19 MS. SHIELDS: Objection.

20 MS. MCCREARY: Misstates her
 21 testimony.

22 MS. SHIELDS: Same objection.

23 THE WITNESS: What I'm saying is that
 24 each site has unique elements to it;

Page 99

1 I can recall various times going back and
 2 asking the management team to modify terms
 3 about sites.

4 And then when they get more in to the
 5 lease negotiations, I review those leases
 6 and have pushed back on various times on
 7 economic terms.

8
 9 BY MR. COYLE:

10 **Q. Okay. And when you say push back, that --**
 11 **that's a term where you'll want to negotiate further**
 12 **-- the terms?**

13 A. Yes; or just say no.

14 **Q. Okay. So will -- there will be sites**
 15 **where you'll actually review the lease?**

16 A. As I sit here today, I can tell you that I
 17 have reviewed the majority, if not all, of the
 18 leases that Rave has signed.

19 **Q. Okay. Now, are all of the Rave theater**
 20 **sites -- these are -- these are stadium-type seating**
 21 **theaters; Is that correct?**

22
 23 MS. SHIELDS: Objection.

24 THE WITNESS: Yes; all of the cinemas

Page 101

1 have stadium seating in them.
 2

3 BY MR. COYLE:

4 **Q. Okay. And these are all brand new
5 theaters?**

7 MS. SHIELDS: Objection.

8 THE WITNESS: We built all the -- all
9 the cinemas for ourselves, yes.

10 BY MR. COYLE:

11 **Q. I mean, you're not -- you're not buying,
12 you know, Ajax Cinema on Fourth Street and
13 remodeling it.**

14 **These are -- these are sites that Rave is
15 building from the ground up.**

16 A. At this stage, our strategy has not been
17 one of acquisition, but rather of new build.

18 **Q. Okay. Now, I take it that -- are some of
19 your sites, then, in new developments?**

20 MS. MCCREARY: I'm going to object to
21 the characterization of your sites.

22 She's here on behalf of Boston

Page 102

1 Ventures. She's not produced in accordance
2 with a 30(b)(6) notice for Rave.

3 BY MR. COYLE:

4 **Q. You can answer.**

5 A. At Rave, the company builds in many
6 different locations. One of the locations happens
7 to be within leisure and retail development.

8 **Q. Okay.**

9 A. That's one scenario, yes.

10 **Q. Okay. And have you had -- have you had
11 situations where Rave is going in as one of the --
12 the initial tenants of a new development?**

13 A. That is certainly something we try to
14 avoid; but I can't recall specifically if, in any
15 situation, we were the first tenant.

16 **Q. Well, I guess my point is, is that are
17 some of these potential sites driven -- have time
18 constraints on them?**

19 **In other words, there's going to be a
20 grand opening of a -- of a new retail development
21 of, you know, of maybe some stores and some shops
22 and -- that Rave would open with at the same time?**

23 Page 103

1 MS. MCCREARY: Objection; lacks
2 foundation, calls for speculation.

3 MS. SHIELDS: Objection; compound and
4 ambiguous.

5 THE WITNESS: I'm going to restate the
6 answer in my own words.

7 It's very difficult to put these
8 general terms against what is really a very
9 specific situation with each site.

10 If you review leases that the company
11 has, in certain of those leases there are
12 times associated upon which the developer
13 would like us to be open at; but,
14 certainly, not in every single case.

15 BY MR. COYLE:

16 **Q. Okay. And I understand. And what I'm
17 saying is, is that some times in your approval
18 process, that could potentially be a factor; that,
19 you know, we need to make a decision on this within
20 this time period if we're going to be part of this,
21 you know, grand opening.**

22 MS. MCCREARY: Object to the form;

23 Page 104

1 leading, calls for speculation, and assumes
2 facts not in evidence.

3 MS. SHIELDS: Same objection.

4 THE WITNESS: I think you're putting
5 your own spin on this. It just doesn't
6 work that way.

7 BY MR. COYLE:

8 **Q. Okay. So there's never a time -- as far
9 as these potential sites, none of them are time
10 sensitive?**

11 MS. SHIELDS: Objection; misstates the
12 witness's prior testimony.

13 THE WITNESS: My statement to this
14 question is that there typically is
15 significant time -- lead time -- ahead of
16 an opening such that the board approval
17 process typically is not constrained by
18 time factors.

19 MR. COYLE: Let's -- can we take a
20 recess for just one minute.

21 Let's go off the record, please.

22 Page 105

1 (Whereupon, a break was taken in the
2 proceedings.)
3

4 BY MR. COYLE:

5 **Q. Ms. Granville-Smith, we took a short
6 recess. Are you ready to proceed?**

7 A. Yes, I am.

8 **Q. Okay. Did you ever travel to Omaha to
9 look at the site?**

10 A. No.

11 **Q. Do you know whether anybody from Boston
12 Ventures went to Omaha to look at the site?**

13 A. No one from Boston Ventures went to Omaha.

14 **Q. Okay. Are you certain of that?**

15 A. As I sit here today, I'm as certain as I
16 can be.

17 **Q. Okay. Let's go back to Exhibit Number 2
18 that's sitting in front of you; specifically, pages
19 1 and 2.**

20 **You'll have a -- the first item on the
21 agenda -- on this BV 001 -- there would be a
22 financial update. Would that be for all of the
23 theaters?**

24 Page 106

1 MS. SHIELDS: Objection; calls for
2 speculation.

3 MS. MCCREARY: Lacks foundation.

4 THE WITNESS: As I said earlier today,
5 I don't recall being specifically at this
6 meeting.

7 I can give an educated statement as to
8 what that is.

9 BY MR. COYLE:

10 **Q. Well, I mean, you go to these meetings all
11 the time. I mean, I know we've got notes -- we've
12 got your personal notes on here, and you don't have
13 a specific recollection of being at this meeting.
14 We've talked about that. We're not going to go back
15 to that.**

16 **But at a board of managers meeting where
17 it says, Financial Update, theater results versus
18 budget, is that a typical thing you do at all these
19 meetings?**

20 MS. MCCREARY: Objection. It's
21 argumentative, and it misstates her
22 testimony.

23 Page 107

1 MS. SHIELDS: Same objection.

2 THE WITNESS: At our board of manager
3 meetings, we typically review the financial
4 performance of the company typically on a
5 theater basis, and typically on a
6 consolidated basis.

7 BY MR. COYLE:

8 **Q. Okay. So when it says theater results
9 versus budget, you will -- you'll see how the
10 different theaters are doing in the different
11 markets; how many people are showing up and buying
12 tickets.**

13 MS. SHIELDS: Objection; misstates the
14 witness's testimony.

15 MS. MCCREARY: Can you read that
16 question back, please.

17 MR. COYLE: Let's move on. It's not
18 -- this is -- this is not rocket science.

19 When you have these -- these --

20 MS. MCCREARY: I simply didn't hear
21 your question, Mr. Coyle.

22 MR. COYLE: -- financial updates -- I

23 Page 108

1 know, but this is just misery.

2 I'm just asking her some questions
3 about what kind of financial information.
4 And I take it that it's --

5 MS. MCCREARY: Mr. Coyle, I simply
6 didn't hear it.

7 BY MR. COYLE:

8 **Q. Okay. Sales at -- ticket sales at the
9 various theaters; is that a fair statement?**

10 A. I would be more comfortable if you
11 addressed your question in a more general term
12 because I, as I told you before, I don't recall
13 specifically being at this meeting.

14 **Q. Okay. And I'm -- and I'm talking about
15 board of managers meetings that I understand you
16 have quarterly.**

17 A. Uh-huh.

18 **Q. So is it a fair statement,
19 Ms. Granville-Smith, that this is -- that you have
20 these meetings all the time -- at least four times a
21 year?**

22 A. Yes. As I said to you before, we
23 typically meet on a quarterly basis as a board, yes.

24 Page 109

1 Q. And let's just get away from the agenda.
 2 A. Okay.

3 Q. Would it be typical, at one of these
 4 meetings, to discuss the financial results of the
 5 various theaters?

6 A. Yes; among other things, we discuss the
 7 financial performance of the company and each of the
 8 theaters.

9 Q. Okay. Now, under Number 3, Real Estate
 10 Review, you would -- it says, Status of existing
 11 markets.

12 And I take it that there would be a report
 13 on your different locations and whether there's a
 14 new theater in town; things of that nature?

16 MS. MCCREARY: Objection.

17 MS. SHIELDS: Objection.

18 MS. MCCREARY: Lacks foundation, calls
 19 for speculation, assumes facts not in
 20 evidence.

21 MS. SHIELDS: Is your question
 22 generally or --

24 BY MR. COYLE:

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1 Q. I'm just -- I take it that -- that this

2 agenda is not -- is a typical agenda; these types of
 3 things are discussed at these meetings?

4 A. As I said earlier today, these kinds of
 5 topics, among others, are discussed at our board of
 6 managers meetings.

7 Q. Okay. Now, you have Timetables -- 2003.
 8 It says, New market opportunities and pipeline. And
 9 it says, Timetables -- 2003.

10 Chattanooga, Baton Rouge, Cincinnati,
 11 Melbourne, Destin, Syracuse and Patton Creek.

12 Did I read that correctly?

13 A. Yes; that's what it says.

14 Q. Okay. So then on the other sheet where it
 15 says 2003, those would be the theaters that you're
 16 hoping to open in 2003; would that be a fair
 17 statement?

19 MS. SHIELDS: Objection; foundation.

20 MS. MCCREARY: Objection. It
 21 misstates the witness's testimony.

22 THE WITNESS: Again, I would say I
 23 don't want to tie these two documents
 24 together because I don't know if they go

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1 together or not.

2 So your question leads me down that
 3 path.

4 BY MR. COYLE:

5 Q. Well, is that the year that -- when it
 6 says opening year on this document -- BV 002 -- I
 7 take it that that's the year you're planning to open
 8 the theater in that location?

9 A. It's important to note that the top of
 10 this document uses the word pipeline. It doesn't
 11 necessarily mean that all those cinemas have been
 12 approved and are ready to go.

13 It's like projections. It's planning for
 14 the company.

16 Q. I understand. And so --

17 A. Okay.

18 Q. -- to the extent it says timetables, 2003,
 19 does that mean that -- that the plan is to open the
 20 theater in that year -- 2003?

22 MS. MCCREARY: Objection; lacks
 23 foundation, calls for speculation.

24 THE WITNESS: I would be speculating

Page 112

1 on this as much as anyone else could
 2 speculate on this.

4 BY MR. COYLE:

5 Q. I'm sorry; I thought that you were on the
 6 board of directors at the Rave Reviews Cinemas.

7 A. I am.

8 Q. Okay.

9 A. But as I told you earlier, I don't recall
 10 receiving this document.

11 Q. Okay. I understand. But it says -- this
 12 is really simple. Opening year -- I understand that
 13 these are projections.

14 And when it says opening year on this
 15 document, I take it that that's the year that you'd
 16 like to open that theater if it's going to be built.

18 MS. MCCREARY: Objection; asked and
 19 answered. You're badgering the witness.

20 MS. SHIELDS: Same objection.

21 THE WITNESS: As I said before, I
 22 think I would be speculating on that.

23 You can ask me questions about this in
 24 general.

Page 113

1 BY MR. COYLE:

2 **Q. Okay. And that's been fine. It's in**
 3 **general. Is that the year that you're hoping to**
 4 **open it?**

5 MS. SHIELDS: Objection; vague.

6 MS. MCCREARY: Same objection.

7 THE WITNESS: We typically have
 8 pipeline reports where we include our
 9 expectations of when we would like a cinema
 10 to open if that cinema manages its way
 11 through the approval process and the lease
 12 negotiation process.

13 But it's simply that. It's
 14 projections. It's forward planning.

15 BY MR. COYLE:

16 **Q. Okay. Did you open a theater in**
 17 **Birmingham, Alabama?**

18 MS. SHIELDS: Objection. It's beyond
 19 the scope of the subpoena. How is this
 20 relevant to the current dispute?

21 MR. COYLE: I'm just going down to see

22 Page 114

23 how many of these theaters opened.

24 MS. SHIELDS: I'll permit

1 Ms. Granville-Smith to answer the question.

2 THE WITNESS: Yes; we opened a theater
 3 in Birmingham, Alabama.

4 BY MR. COYLE:

5 **Q. Did you open one in Little Rock, Arkansas?**

6 A. Yes; we opened a cinema Little Rock.

7 **Q. Cincinnati, Ohio?**

8 A. Yes; we opened in Cincinnati.

9 **Q. Baton Rouge, Louisiana?**

10 A. We have a cinema in Baton Rouge. I can
 11 not recall whether or not that cinema is the cinema
 12 that is on this list or not.

13 **Q. Okay.**

14 A. I simply don't know. We looked at a
 15 variety of cinemas in Baton Rouge

16 **Q. Did you open a theater in Destin, Florida?**

17 A. We have opened a cinema in Destin,
 18 Florida.

19 **Q. Did you open a theater in Birmingham,**
 20 **Alabama?**

21 A. You're referring to the second cinema in

22 Page 115

1 Patton Creek; and, yes, we have opened that.

2 **Q. Okay. Chattanooga, Tennessee?**

3 A. That's unfair. You are excluding one of
 4 the cinemas on the list, and I think that's
 5 inappropriate.

6 **Q. Well, I'll go back through it. Did you**
 7 **open a theater in Chattanooga?**

8 A. We have a cinema in Chattanooga. We had
 9 several locations in process in Chattanooga. I do
 10 not know which cinema it is that was opened.

11 **Q. Did you open one in Melbourne, Florida?**

12 A. We have a cinema in Melbourne, Florida.

13 The development situation there changed once during
 14 our process; not clear whether or not this is the
 15 same deal as we ultimately had at the end.

16 **Q. Okay. Did you open a theater in Jackson**
 17 **-- Is that Jackson, Mississippi?**

18 A. No.

19 **Q. Jackson. Where is that?**

20 A. Jackson is in Mississippi. We do not have
 21 a cinema there.

22 **Q. Okay. Do you have one in development**
 23 **there?**

24

Page 116

1 how many of these theaters opened.

2 MS. SHIELDS: I'll permit

3 Ms. Granville-Smith to answer the question.

4 THE WITNESS: Yes; we opened a theater
 5 in Birmingham, Alabama.

6 BY MR. COYLE:

7 **Q. Did you open one in Little Rock, Arkansas?**

8 A. Yes; we opened a cinema Little Rock.

9 **Q. Cincinnati, Ohio?**

10 A. Yes; we opened in Cincinnati.

11 **Q. Baton Rouge, Louisiana?**

12 A. We have a cinema in Baton Rouge. I can
 13 not recall whether or not that cinema is the cinema
 14 that is on this list or not.

15 **Q. Okay.**

16 A. I simply don't know. We looked at a
 17 variety of cinemas in Baton Rouge

18 **Q. Did you open a theater in Destin, Florida?**

19 A. We have opened a cinema in Destin,
 20 Florida.

21 **Q. Did you open a theater in Birmingham,**
 22 **Alabama?**

23 A. You're referring to the second cinema in

1 MS. SHIELDS: Objection. That borders
 2 on planning. That -- that questions asks
 3 for proprietary information about Boston
 4 Ventures' planning processes -- their
 5 current planning processes.

6 I don't think that that's relevant to
 7 this case. It's potentially very sensitive
 8 and confidential information about their
 9 future development plans.

10 I'm not going to permit
 11 Ms. Granville-Smith to answer that
 12 question.

13 MR. COYLE: You're not going to permit
 14 the witness to answer whether they're
 15 building a theater in Jackson?

16 MS. SHIELDS: Your question was
 17 whether they are currently -- whether it's
 18 currently under development.

19 BY MR. COYLE:

20 **Q. Are you building a theater in Jackson?**

21 A. That's the same question.

22 MS. SHIELDS: That's the same

23 Page 117

24 30 (Pages 114 to 117)

1 question.
 2 MR. COYLE: I don't think that is.
 3 MS. SHIELDS: Are you developing an
 4 as-yet unbuilt theater in Jackson is a
 5 question that calls for the witness to
 6 disclose information about their current
 7 planning process.
 8 That information -- because a theater
 9 isn't yet built, that's very confidential
 10 and sensitive information about what the
 11 company is planning to do.
 12 MR. COYLE: I understand. My question
 13 is simpler.

15 BY MR. COYLE:

Q. Does Rave have a theater under construction at Jackson?

19 MS. SHIELDS: You can answer the
 20 question whether there's a theater under
 21 construction.

22 THE WITNESS: To the best of my
 23 knowledge, I do not believe that there is a
 24 cinema under construction in Jackson.

Page 118

1 BY MR. COYLE:

Q. Okay. Is -- is Rave building one there?

4 MS. SHIELDS: I'm going to instruct
 5 the witness not to answer that question.

6 It's inappropriate. It calls for
 7 confidential and proprietary information.
 8 It's beyond the scope of the subpoena.

10 BY MR. COYLE:

Q. Did you build one in Austin, Texas?

11 A. To the best of my knowledge, there is no
 12 cinema operating currently in Austin, Texas.

13 **Q. Okay. Are you building one?**

16 MS. SHIELDS: Same objection; same
 17 instruction.

18 VIDEOGRAPHER: This is the end of Tape
 19 1. We are going off the record to change
 20 tapes.

22 (Whereupon, a short break was taken
 23 in the proceedings.)

24

1 (Exhibit Number 3 was marked for
 2 identification.)

3
 4 MS. SHIELDS: Mr. Coyle, before we
 5 took a break, you had asked
 6 Ms. Granville-Smith some questions about
 7 development in Jackson, Mississippi.

8 If you'd like to ask that question
 9 again, I'll permit Ms. Granville-Smith to
 10 answer the question.

11 MR. COYLE: Okay. Thank you.

12 BY MR. COYLE:

Q. Is Rave developing a theater In Jackson, Mississippi?

16 A. To the best of my knowledge, no, we are
 17 not.

Q. Okay. Look at Exhibit Number 3. It's just off your web site.

20 A. I'd like to take a recess, please.

22 (Exhibit Number 4 was marked for
 23 identification.)

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1 BY MR. COYLE:

Q. I handed you Exhibit 3, and I think I might have misspoke. That is a web site from Rave Motion Pictures. Are you familiar with that?

5 A. No. I'm not really familiar with their
 6 web site. I don't go there that often.

Q. Okay. And the only reason I'm asking is it appears to me that -- that there's no theater in Syracuse, New York; Is that correct?

10 A. At this stage, no, there is no theater in
 11 Syracuse, New York.

Q. And there's -- there's no theater in Jackson?

14 A. Based upon the web site, no, there's no
 15 theater in Jackson.

Q. I understand. And I didn't click on the press releases. I don't know what they've announced they're developing.

But the only reason I ask it is it looks to me like the only theaters off the pipeline, Exhibit 2, page BV 002, is Omaha, Nebraska; Syracuse, New York; and Jackson. Is that a fair statement?

Page 121

1 MS. SHIELDS: Objection; vague.
 2

3 THE WITNESS: As I said earlier today,
 4 I commented that it wasn't clear to me
 5 whether or not the Baton Rouge site was the
 6 same site or not.

7 In addition, Chattanooga has no site
 8 attached. It's just a market.

9 Austin is another site -- another
 10 market, excuse me -- where we looked at
 11 various sites.

12 So please don't make that
 13 generalization about this document.

14 BY MR. COYLE:

15 Q. **Well, but you have -- you have -- Rave has
 16 theaters in those cities?**

17 A. Those are very big cities.

18 Q. **I understand. But you and I can agree
 19 that they've got -- the only theaters that are on
 20 that list that aren't presently operated is
 21 Syracuse, Jackson, and Omaha.**

22 MS. SHIELDS: Objection. It misstates
 23 the document, and it misstates the

24 Page 122

1 witness's prior testimony.

2 THE WITNESS: What I'll say is that we
 3 currently are not operating cinemas in
 4 Jackson, Syracuse, and Omaha.

5 BY MR. COYLE:

6 Q. **Okay. So is it your testimony that there
 7 isn't any plan development for Jackson or Syracuse?**

8 A. As I sit here today, I do not believe we
 9 have any plan development for Jackson.

10 I do know that the management team likes
 11 the Syracuse market and would like to find an
 12 opportunity there.

13 Q. **Did you ever review a lease for the site
 14 in Omaha?**

15 MS. MCCREARY: Objection; lacks
 16 foundation, assumes facts not in evidence.

17 THE WITNESS: As I sit here today, I
 18 do not believe I ever saw a lease for
 19 Omaha.

20 BY MR. COYLE:

21 Q. **So your testimony is you never reviewed a**

22 Page 123

1 **lease for Omaha?**

2 A. That's my testimony. I never reviewed a
 3 lease for Omaha, as I sit here today.

4 Q. **Do you know whether a lease -- a proposed
 5 lease was being negotiated?**

6 A. I have no idea.

7 Q. **Did you ever have any conversations with
 8 anybody at Rave about lease negotiations for the
 9 Omaha site?**

10 A. I don't remember any discussions; but
 11 there could have been. But I do not remember any
 12 discussions about the lease in Omaha.

13 Q. **Were you ever given terms for a lease in
 14 Omaha?**

15 A. No, I don't recall ever receiving terms
 16 for the lease in Omaha.

17 Q. **Did you ever have a conversation with
 18 anybody at Rave about beginning the lease
 19 negotiation process?**

20 A. No; I don't recall any conversations of
 21 that nature.

22 Q. **Does the -- does the -- does the board of
 23 Rave need to give approval for the management team
 24 to start such negotiations?**

Page 124

1 MS. MCCREARY: Objection to the form;
 2 calls for speculation, lacks foundation.

3 MS. SHIELDS: Join.

4 THE WITNESS: Could you restate his
 5 question, please.

6 (The question was read back as
 7 follows:

8 "Does the board of Rave need to
 9 give approval for the management team
 10 to start such negotiations?"

11 MS. SHIELDS: Objection. Also vague
 12 as to negotiations.

13 THE WITNESS: As I stated before, the
 14 lease negotiations process is different for
 15 each site transaction.

16 But a lease can not be signed unless
 17 the Board has approved the site, and,
 18 subsequently, Boston Ventures has reviewed
 19 the lease.

20 BY MR. COYLE:

21 Q. **Okay. Ms. Granville-Smith, my question**

22 Page 125

1 was a lot more narrow than that.
 2 Does the board of directors need to give
 3 the management team at Rave permission to begin
 4 lease negotiations?

5 MS. SHIELDS: Same objection.
 6 THE WITNESS: As I sit here today, I
 7 can't give you a specific answer to that.
 8 It would be technical, and I just don't
 9 know as I sit here today.

10 BY MR. COYLE:

11 Q. Well, what is it that you don't know? I
 12 mean, you don't instruct -- doesn't the -- the three
 13 members from Boston Ventures sit on the Rave review
 14 board. We've talked about that earlier. And you've
 15 told me what your typical timeline is for a site.

16 My question to you is: Does senior
 17 management at Rave require permission from the board
 18 of directors of Rave before they begin lease
 19 negotiations?

20 MS. SHIELDS: Objection; vague as to
 21 lease negotiations.

Page 126

1 MS. MCCREARY: Objection; lacks
 2 foundation, calls for speculation.
 3

4 BY MR. COYLE:

5 Q. Okay. And he is an officer of Rave?

6 MS. MCCREARY: Objection; lacks
 7 foundation, calls for speculation.
 8

9 BY MR. COYLE:

10 Q. Do you know who the senior management
 11 officers are at Rave?

12 A. I don't know, technically, the legal
 13 classification of each of the senior managers. I
 14 know who the senior management team is, obviously.

15 Q. Okay. Is Bob Painter a member of the
 16 senior management team?

17 A. Yes.

18 MS. MCCREARY: Objection; lacks
 19 foundation, calls for speculation.
 20

21 BY MR. COYLE:

22 Q. Is Tom Stephenson a member of the Rave

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1 THE WITNESS: My response was that I
 2 don't know if, technically, they require
 3 our approval or not.

4 In practice, they can't complete the
 5 lease negotiations unless someone from
 6 Boston Ventures has approved it.

7 BY MR. COYLE:

8 Q. Okay.

9 A. So --

10 Q. Did you know -- do you know whether senior
 11 management at Rave was involved in lease
 12 negotiations with representatives of RED Development
 13 for the Omaha theater complex in Omaha?

14 A. As I said to you before, I don't know if
 15 they were discussing a lease in Omaha.

16 Q. So -- so it's your testimony -- okay. I
 17 want you to assume that representatives -- senior
 18 management at Rave, specifically, Bob Painter, and
 19 Mr. Stephenson -- first of all, who's Bob Painter?

20 A. Bob Painter is a member of our senior
 21 management team at Rave.

22 Q. Okay. Is he still?

23 A. Yes.

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1 senior management team?

2 A. Yes; Tom Stephenson is a member of the
 3 senior management team.

4 Q. And, in fact, directing your attention to
 5 Exhibit 3, Rave Motion Pictures web site Identifies
 6 Thomas W. Stephenson as President and Chief
 7 Executive Officer. Am I reading that correctly?

8 A. Yes; that's what it says.

9 Q. Is that, in fact, his title?

10 MS. SHIELDS: Objection; calls for
 11 speculation. The witness has testified she
 12 has no knowledge.

13 BY MR. COYLE:

14 Q. Well, you don't have any reason to doubt
 15 the information that's contained on the web site
 16 that was printed off on June 29th of 2005?

17 A. I have no reason to disagree with the
 18 report from the web site, no.

19 Q. Okay. So is it your testimony,
 20 Ms. Granville-Smith, that you had no knowledge that
 21 any lease negotiations were going on between
 22 representatives of RED Development and senior

Page 129

1 management at Rave?

2
3 MS. SHIELDS: Objection; asked and
4 answered several times.

5 THE WITNESS: I do believe I have
6 already answered this a couple of times.

7 But I had no knowledge -- I don't know
8 if they were in discussions on the lease
9 terms to the Omaha site.

10 BY MR. COYLE:

11 Q. Okay. Now, earlier in the deposition you
12 talked about a 1999 commitment of \$50 million and
13 then a second commitment in 2002. Do you remember
14 that?

15 A. What I said at that time is that it was in
16 and around 1999 and in and around 2002.

17 Q. Okay.

18 A. Those are the approximate dates.

19 Q. That's fine.

20 A. Okay.

21 Q. I understand.

22 A. Okay.

23 Q. And in 1999, it was 50 million?

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1 was printed off yesterday, June 29th, 2005.

2 Do you have any reason to dispute that
3 this is not a copy of what's on the web site as of
4 yesterday?

5
6 MS. SHIELDS: I would note for the
7 record, Mr. Coyle, that a number of the
8 pages appear to be cut off on the -- on the
9 right-hand side.

10 MR. COYLE: Okay. Thank you.

11 THE WITNESS: Based upon a recent
12 review of our web site, the pages look to
13 be from our web site.

14 Again, I'm not responsible for the
15 content, and I'm not sure whether or not
16 it's comprehensive. There may be other
17 pages to our web site that aren't included
18 here. I would have no way of being
19 definitive about that.

20 BY MR. COYLE:

21 Q. Okay. Directing your attention to where
22 It says Traditional Media and Entertainment, it
23 lists Rave Reviews Movie Theater.

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1 A. Yes.

2 Q. And what was the commitment in 2002?

3 A. In and around that time, we committed an
4 additional \$10 million.

5 Q. And when you talk about this commitment,
6 that is not for any specific site, but for
7 investments in numerous sites.

8 MS. SHIELDS: Objection.

9 THE WITNESS: The commitment in the
10 equity is used to fund the operations of
11 the company, including capital expenditures
12 required to build new cinema sites.

13 BY MR. COYLE:

14 Q. Okay. I want you to pick up Exhibit
15 Number 4.

16 A. Okay.

17 Q. Are you familiar with the Boston Ventures
18 web site?

19 A. I've been on the Boston Ventures web site
20 from time to time. I'm not responsible for its
21 content or the updating of it.

22 Q. I understand. I will tell you that this

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1 MS. SHIELDS: Are you referring to
2 page 3 of the exhibit?

3 MR. COYLE: Well, there's --

4 THE WITNESS: There's no pages.

5 MS. SHIELDS: The third page of the
6 exhibit?

7 MR. COYLE: Keep going. They're not
8 really numbered well. One more page there.

9 THE WITNESS: I'm uncomfortable
10 responding to a question that's not
11 identified specifically.

12 MR. COYLE: Okay. We'll go ahead and
13 have the court reporter number the pages,
14 please.

15 Let's go off the record while she's
16 numbering those.

17 (Whereupon, a short break was taken
18 in the proceedings.)

19 BY MR. COYLE:

20 Q. Ms. Granville-Smith, we took a short
21 recess. Are you ready to proceed?

22 A. Yes.

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1 **Q. Okay. Let's go to page 20. Who Is Gerald
2 Hobbs?**

3 A. Gerald Hobbs is an operating partner at
4 Boston Ventures.

5 **Q. Okay. And is -- what is operating
6 partner? What does that signify?**

7 A. It's a term that we use for people who
8 come to us and join our team who have more operating
9 and management experience.

10 **Q. Okay. Is -- is he your boss?**

11 A. No, he is not. He's my colleague.

12 **Q. Okay. Is he involved in Rave?**

13 A. No; Mr. Hobbs is not involved in Rave
14 Motion Pictures.

15 **Q. And when you say that, as an operating
16 partner, is the investment in the theater complex,
17 is that under his domain, so to speak, or is that a
18 different division than Mr. Hobbs?**

20 MS. SHIELDS: Objection; vague and
21 ambiguous.

22 THE WITNESS: As I said before, there
23 are four people from Boston Ventures who
24 are assigned to the Rave investment.

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1 Mr. Hobbs is not one of them.

2 BY MR. COYLE:

3 **Q. Okay. And then does your team report to
4 anybody?**

6 A. At Boston Ventures, we work
7 collaboratively as a group, and we have weekly
8 meetings where we discuss the progress of our
9 company.

10 **Q. Okay. So you're the same -- your -- your
11 job title is the same as operating partner?**

13 MS. SHIELDS: Objection; misstates the
14 witness's testimony.

15 THE WITNESS: As I said before, I'm a
16 managing director.

17 Mr. Hobbs has a different title
18 because he comes to us with a different
19 background, and we would use him as a
20 member of the team in a different way than
21 a normal managing director might be used.

22 It's very typical in the private
23 equity adventure capital environment to
24 have, quote, unquote, operating partners.

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1 BY MR. COYLE:

2 **Q. Okay. So he -- he might have some
3 specialized knowledge on different industries, then?**

4 A. Yes.

5 **Q. Okay.**

6 A. If you review his background, it's all in
7 publishing information. It's totally irrelevant to
8 this.

9 **Q. Okay. Page 17. This Barbara Ginader, she
10 is currently a director of Rave Reviews Cinemas;
11 correct?**

12 A. Yes.

13 **Q. Page 13. Roy Coppedge, III; he's also the
14 managing director of Rave Reviews Cinemas?**

15 A. No; he is a director of Rave.

16 **Q. Okay. I'm just looking at his title. It
17 says managing director at the top.**

18 A. Of Boston Ventures. You keep getting that
19 mixed up.

20 **Q. Okay. But he's on the board of directors
21 of Rave Reviews Cinemas?**

22 A. He is on the board of managers of Rave
23 Reviews Cinemas, yes.

24 **Q. Okay. And then page 12 before that, you**

Page 136

1 **are on the board of managers for Rave Reviews
2 Cinemas?**

3 A. Yes, I am on the board of Rave.

4 **Q. And who are the two other that make up the
5 five?**

7 MS. SHIELDS: Objection; vague and
8 ambiguous.

9 THE WITNESS: As I said before, as I
10 sit here today, I can recall five directors
11 of Rave. There may be more.

12 The other two include Tom Stephenson
13 and Scott Potter; but, as I said, there
14 could be another director. I just can't
15 recall.

16 MR. COYLE: Okay. Let's mark this
17 Number 5.

19 (Exhibit Number 5 was marked for
20 identification.)

22 BY MR. COYLE:

23 **Q. You can take a look at Exhibit Number 5
24 for a moment, and then I'm going to ask you a couple**

Page 137

1 **questions about it.**

2 A. Again, if you're going to ask me any
3 questions about this, I would like the pages
4 separately numbered, please.

5 **Q. Sure.**

6 A. So we don't get confused.

7 **Q. I can do that. If you just want to hand
8 it to the court reporter, she'll do that for you.**

10 MS. SHIELDS: Mr. Coyle, before we go
11 back on the record, could you tell me how
12 this is relevant to the subpoena that you
13 served on Boston Ventures?

14 MR. COYLE: Well --

15 MS. SHIELDS: What topic does this
16 cover?

17 MR. COYLE: Sure. This goes in to
18 documents that -- producing a witness who
19 has the most knowledge regarding the issues
20 identified in Exhibit Number 1;
21 specifically, Rave Reviews Cinemas
22 financing or investment by Boston Ventures.

23 MS. SHIELDS: And that's the topic to
24 which we've objected.

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1 MR. COYLE: I understand. And --

2 MS. SHIELDS: I'll permit you some
3 latitude, but we'll go on a
4 question-by-question basis because I don't
5 believe that any documents or
6 correspondence relating to a theater in
7 Fort Wayne is relevant to this dispute.

8 BY MR. COYLE:

9 **Q. Okay. I think -- have the pages been
10 numbered, Ms. Granville-Smith?**

11 A. Yes. I have 11 pages.

12 **Q. Okay. First of all, you have a theater in
13 Jefferson or -- I think it says -- is it Fort Wayne,
14 Indiana?**

15 A. Yes.

16 **Q. Rave does?**

17 A. Yes; Rave currently operates a cinema in
18 Fort Wayne, Indiana.

19 **Q. Okay. And Boston Ventures Limited
20 Partnership Number 5 is the majority shareholder in
21 that?**

22 MS. SHIELDS: Objection.

Page 139

1 THE WITNESS: Again, you keep
2 confusing the ownership structure of the
3 company.

4 We are the majority shareholder in
5 Rave Reviews.

7 BY MR. COYLE:

8 **Q. Well, I'm just reading from Exhibit Number
9 5.**

10 **It says: The Company is the 100 percent
11 stockholder of Rave Motion Pictures Fort Wayne,
12 L.L.C. Which would be a subsidiary of Rave;
13 correct?**

15 MS. SHIELDS: Objection.

16 THE WITNESS: Right; but the way you
17 stated the question was incorrect. As you
18 see in the exhibit, Company is defined as
19 Rave Reviews Cinemas.

21 BY MR. COYLE:

22 **Q. Okay. Now, it says that Boston Ventures
23 has allocated a total of \$50 million in equity
24 capital to support the development of Rave Reviews,**

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1 **which is consistent with what you told me earlier --
2 the commitment started in 1999; correct?**

4 MS. SHIELDS: Objection.

5 THE WITNESS: The language in this
6 exhibit is very vague.

7 As I said before earlier today, our
8 commitment was to fund corporate purposes,
9 support corporate overhead, and to help
10 fund the capital expenditures required for
11 new cinema developments, among other
12 capital requirements of the company.

14 BY MR. COYLE:

15 **Q. Okay. Now, turning to page Exhibit Number
16 2.**

17 A. It's page number 2.

18 **Q. Thank you. Page number 2 of Exhibit
19 Number 5. These are the consolidated financial
20 statements of Rave Reviews Cinema. Now --**

22 MS. SHIELDS: I'm going to object on
23 foundational grounds. Are you testifying?

24 MR. COYLE: No, no. I'm going to ask

Page 141

1 her. I'm just -- I'm just following up on
2 this.
3

4 BY MR. COYLE:

5 **Q. First of all, getting consolidated
6 financial statements of Rave Reviews Cinemas is
7 something that is provided to you at Boston
8 Ventures?**

9 MS. MCCREARY: I need to hear that
10 question, please.
11

12 (The question was read back as
13 follows:
14

15 "I'm just following up on this.
16 First of all, getting
17 consolidated financial statements of
18 Rave Reviews Cinemas is something
19 that is provided to you at Boston
20 Ventures?"

21 THE WITNESS: Annually, we do receive
22 an audit report from our accountants.
23

24 Page 142

1 **Exhibit Number 5 appears to be for the period
2 through December twenty -- for the year ending
3 December 27th, 2001.**

4 I'm taking it that the years ended
5 December 27th, 2002, 2003, 2004 -- that those would
6 be in the possession of Boston Ventures.
7

8 MS. SHIELDS: Objection; calls for
9 speculation. Beyond the scope of the
10 subpoena.
11

12 MS. MCCREARY: Lacks foundation.
13

14 THE WITNESS: Certainly, we would have
15 reviewed the audited financials for each of
16 those years.
17

18 Whether or not we have copies of them,
19 I can't say.
20

21 BY MR. COYLE:

22 **Q. So if you reviewed them, would they be
23 destroyed after you reviewed them?**

24 A. I just know that I can always get a copy
25 of the audited financials any time I want. So
whether or not we keep them or not, I can't say.
26

27 **Q. Well, you're aware of the fact that Rave**

28 Page 144

1 **developed another theater in Fort Wayne, Indiana
2 with RED Development; are you not?**
3

4 MS. MCCREARY: Object to the form.
5

6 MS. SHIELDS: Object. It's beyond the
7 scope of the subpoena. We'll go question
by question.
8

9 THE WITNESS: We have one cinema in
10 Fort Wayne with RED, yes.
11

12 BY MR. COYLE:

13 **Q. Okay. All right. So you had -- Rave had
14 developed at least one new theater site with RED
15 Development prior to discussions about Omaha?**

16 MS. SHIELDS: Objection; assumes facts
17 not in evidence. This witness has
18 testified she wasn't aware of discussions.
19

20 BY MR. COYLE:

21 **Q. Well, you don't have any reason to dispute
22 that, do you, Ms. Granville-Smith?**

23 A. I know we have one cinema with RED. I'll
24 leave it there.
25

26 Page 145

1 **Q. Okay. And that would be in Fort Wayne,
2 Indiana?**

3 A. Fort Wayne, Indiana, yes.

4 **Q. Okay. Now, on page 9, it talks about
5 sale-leaseback transactions with W.P. Carey for its
6 theaters located in Hickory Creek, Texas; Pensacola,
7 Florida; and Port St. Lucie, Florida. Did I read
8 that correctly?**

9 A. I want to be clear that when you refer to
10 page 9, it's the 9 that's itemized by the court
11 reporter, not the fax pages on top?

12 **Q. Yes.**

13 A. That is what it says here, yes.

14 **Q. Okay. So a sale-leaseback, that's a
15 little different arrangement, is it not?**

16 MS. SHIELDS: Objection; vague and
17 ambiguous.

18 BY MR. COYLE:

19 **Q. Could you describe what a sale-leaseback
20 transaction is.**

21 A. If you recall earlier this morning, I
22 discussed that we have various different ways of

23 Page 146

1 financing our development opportunities.

2 Sale-leasebacks is one of those.

3 **Q. Okay. Could you describe that for me,
4 please.**

5 A. This gets in to a realm of more technical
6 finance. I will do my best to give you my
7 interpretation of what a sale-leaseback is.

8 It's essentially a third-party financing
9 on a site-by-site basis. So in this circumstance,
10 we partnered with W.P. Carey. They helped finance
11 for us the building of our theaters, and then we
12 lease that back from them. So, in effect, they're
13 the financing source.

14 **Q. Okay.**

15 A. That is a very general example. It's a
16 very technical area of corporate finance.

17 **Q. Okay. And so to the extent on Exhibit
18 Number 2 where it lists all the different locations
19 and it says W.P. Carey next to -- and I've got more
20 questions on that Exhibit Number 5.**

21 A. Okay.

22 **Q. Baton Rouge. It says W.P. Carey. Is that
23 an engagement in Baton Rouge where you did such an
24 engagement with W.P. Carey?**

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1 A. I don't know if we specifically used W.P.
2 Carey to finance the Baton Rouge site.

3 As I said before, I'm not certain whether
4 or not the site on this list in Exhibit 2, page 2,
5 is a site that we actually did in Baton Rouge.

6 **Q. Okay. Now, going back to that Exhibit
7 Number 2, what's this say here? No -- could you
8 read that for me? No parent?**

9 A. No parent guarantee.

10 **Q. Describe that for me, please.**

11 A. In simple terms, what that means is that
12 the lease expense does not require a corporate level
13 guarantee.

14 **Q. Okay.**

15 A. It's held at the subsidiary level.

16 **Q. And so when you say a corporate level
17 guarantee, that means there's no guarantee required
18 on behalf of Boston Ventures?**

19 A. No. What I mean is that there's no
20 guarantee required on behalf -- or by, I should say
21 -- Rave Reviews Cinemas, the parent company.

22 **Q. Okay. Now, was there a guarantee at the
23 Jefferson Pointe project by Boston Ventures?**

24

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1 MS. MCCREARY: Object to the form of
2 the question.

3 MS. SHIELDS: I'm sorry, you referred
4 to Jefferson Pointe?

5 MR. COYLE: Fort Wayne.

6 MS. SHIELDS: Objection; calls for
7 speculation. It's beyond the scope of the
8 subpoena.

9 THE WITNESS: I don't know if we have
10 a corporate level guarantee there or not.

11 MR. COYLE: Let's mark this as Number
12 6, please.

13

14 (Exhibit Number 6 was marked for
15 identification.)

16

17 BY MR. COYLE:

18 **Q. I'm handing you what's been marked as
19 Exhibit Number 6. Can you identify that, please.**

20 A. I have no recollection of seeing this
21 before today.

22 **Q. Okay. And are you familiar with what a
23 set-aside letter is?**

24 A. I've been in this business for ten years,

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1 so I've seen a lot of legal documents.
 2 I couldn't tell you specifically what this
 3 letter is, no.

4 **Q. Well, directing your attention to the**
5 second page. It's Bate stamped RED 0003.
6 It basically indicates that Boston
7 Ventures Limited Partnership Number 5 will continue
8 to fund its obligations under the contribution
9 letter.

10 **In other words, that -- that Boston**
11 Ventures is going to be good for providing the
12 money. Isn't that essentially what this means?

13 MS. SHIELDS: Objection. This is an
 14 extensive legal document that
 15 Ms. Granville-Smith has never seen before.

16 I'm going to object to asking -- you
 17 asking her to characterize the legal
 18 meaning of a legal document she's never
 19 seen.

20 THE WITNESS: I'd also need some time
 21 to review this.

22 BY MR. COYLE:

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1 **Q. Okay. Go ahead. Take a look at it.**

2 A. I just don't know what this is relevant
 3 for. It's a totally different deal.

4 **Q. I'm just -- this is -- this was an**
5 engagement at Fort Wayne, Indiana that Rave did with
6 RED. And I'm trying to determine Boston Ventures
7 had invested some funds in that, and it's my
8 understanding that this Exhibit Number 6 was part of
9 that engagement.

10 MS. SHIELDS: Mr. Coyle, it's far
 11 beyond the scope of the subpoena. If you'd
 12 wanted Ms. Granville-Smith to be prepared
 13 to talk about the Fort Wayne, Indiana
 14 project, that should have been in the
 15 subpoena.

16 I'm going to object to you asking her
 17 to review extensive legal documentation
 18 that she's told you she's never seen
 19 before.

20 MR. COYLE: Well, it's not extensive
 21 legal documentation. It's clearly covered
 22 by the subpoena. It should have been
 23 produced.

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1 But I'm going to -- in the interest of
 2 time, I'm going to move on.

3 **BY MR. COYLE:**

4 **Q. Let's go to -- let's go to page 10 in**
5 Exhibit Number 5.

6 **Now, the Boston Ventures Limited**
7 Partnership Number 5, is that the entity that has
8 provided this \$50 million in capital?

9 MS. SHIELDS: Objection; calls for
 10 speculation.

11 THE WITNESS: Yes; Fund 5 invested \$50
 12 million. Just under \$50 million, actually.

13 **BY MR. COYLE:**

14 **Q. Okay. Now, the members equity in Rave**
15 Reviews Cinemas, according to this Exhibit Number 5,
16 is comprised of Class A Units, Class B Units, and
17 Class C Units. Did I read that correctly?

18 A. That's what it says on these statements as
 19 of 2001, yes.

20 **Q. Okay. And the A Units, majority owned by**
21 Boston Ventures Limited Partnership 2, except those

22 Page 152

1 **granted to W.P. Carey, have all of the voting**
 2 **rights, including the ability to elect the Board of**
 3 **Managers and certain preferences over B and C Units**
 4 **as it relates to return of invested capital, among**
 5 **others.**

6 **Did I read that correctly?**

7 A. No, you didn't, actually. It's Boston
 8 Ventures Limited Partnership 5. But all other words
 9 were correct.

10 **Q. Okay. And as far as the ability to elect**
 11 **the Board of Managers of Rave Reviews Cinemas,**
 12 **Boston Ventures still has that power?**

13 MS. SHIELDS: Objection; calls for a
 14 legal conclusion.

15 THE WITNESS: I would have to review
 16 our current LLC agreement to give you a
 17 very specific and certain answer to that.

18 **BY MR. COYLE:**

19 **Q. Okay. Is it your testimony,**
 20 **Ms. Granville-Smith, that Boston Ventures does not**
 21 **have that power?**

22 Page 153

1 MS. SHIELDS: Objection; vague and
2 ambiguous.

3 THE WITNESS: That's not what I said.

4 MS. SHIELDS: Calls for a legal
5 conclusion.

6 THE WITNESS: What I said was to
7 answer your question with certainty, I
8 would like to review our LLC documentation
9 so that I'm clear and certain about my
10 answer.

11 BY MR. COYLE:

12 Q. Okay. Well, I will tell you that I
13 clearly believe that was part of what you were
14 supposed to be produced to testify to today. So I'm
15 going -- I'm going to go through that.

16 And I'm going to adjourn the deposition
17 for now because I want to go back and have you pick
18 up Exhibit Number 1.

19 Would you go back and pick up Exhibit
20 Number 1, please.

21 MS. SHIELDS: With respect, I'm not
22 sure what you mean by adjourning the

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1 there are attending documents, analysis, different
2 reports, et cetera.

3 Q. Okay. And is it your testimony that you
4 were never provided a single piece of paper
5 regarding a potential site in Omaha, Nebraska?

6 MS. SHIELDS: Objection; misstates the
7 witness's prior testimony.

8 In addition, it's directly
9 contradicted by the two documents we've
10 produced.

11 BY MR. COYLE:

12 Q. Those are the only two documents that you
13 have relative to the engagement in Omaha, Nebraska?

14 A. Based upon my review of all of our
15 documentation, those are the two documents that I
16 found. I can't say this enough times.

17 Q. Okay. Number 3: Produce all market
18 studies, reports, memoranda or other documents that
19 refer to building or operating movie theaters in
20 Omaha, Nebraska or the greater Omaha area.

21 Did you take the same steps; checked with
22 the other directors and your -- and their

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1 deposition. What do you mean by that?

2 MR. COYLE: Well, we can go through
3 it. I want to see what efforts this
4 witness went through to -- let's go to --
5 we've already talked about e-mails. Let's
6 -- and correspondence.

7 BY MR. COYLE:

8 Q. Produce all documents -- under Item Number
9 2 -- whether in electronic format or otherwise,
10 between Rave Reviews Cinemas, including its agents
11 and employees, and Boston Ventures Management,
12 including its parents, subsidiaries, agents and
13 employees, regarding building and/or operating a
14 movie theater in Omaha, Nebraska.

15 Is it -- is it your testimony that you
16 took the same steps to look for such documents?

17 A. As I said before earlier, I went through
18 this request on each of these items and reviewed all
19 the areas where I believed we would find
20 documentation -- potentially find documentation.

21 Q. Okay. Aren't you provided with documents
22 as part of these quarterly meetings?

23 A. When we have board of manager meetings,

1 secretaries?

2 A. Yes, I did.

3 Q. Okay. Did you do anything else?

4 MS. SHIELDS: Other than what she's
5 previously testified to?

6 MR. COYLE: Yeah; I want to know if
7 she did anything other than that to look
8 for documents under Item Number 3.

9 THE WITNESS: As I said earlier, I
10 went to every member of my team, and I
11 believe I copied their admin support staff,
12 and asked them to respond to this request.

13 And then I personally reviewed all of
14 our company files to respond.

15 BY MR. COYLE:

16 Q. And you found nothing?

17 A. Other than the items that were produced.

18 Q. Okay. Number 4: Produce all documents
19 relating or referring to Rave Reviews Cinemas'
20 decision not to build or operate a theater in Omaha,
21 Nebraska or the greater Omaha area.

22 Did you take the same steps to look for

Page 157

1 documents as you just described?

2 A. Yes, I did.

3 Q. And it's your testimony that no such
4 documents exist?

5 A. No such documents exist.

6 Q. So after Exhibit Number 2, was -- was the
7 Omaha -- and I understand you don't have any
8 recollection of being at this meeting on September
9 11th of 2002.

10 A. I have no specific recollection of being
11 at that meeting.

12 Q. Does anybody take minutes?

13 A. It's not our standard to keep minutes of
14 our meetings unless there's some major approval
15 process. So I don't believe there are any minutes
16 to the meeting.

17 Q. Did you look for them?

18 A. Yes; I looked through -- as I said before,
19 I looked through all of our documentation.

20 Q. Okay. Now, would there be other directors
21 of Boston Ventures that were at this meeting on
22 September 11th of 2002 -- sit on Rave's board;
23 Mr. Coppedge and --

24 Page 158

1 MS. SHIELDS: Calls for -- objection;
2 calls for speculation.

3 THE WITNESS: I can't tell you whether
4 or not Mr. Coppedge or Ms. Ginader was at
5 the meeting or not.

6 BY MR. COYLE:

7 Q. Well, isn't it -- would it be the normal
8 practice that all of the directors attend these
9 quarterly meetings?

10 A. It would be the normal practice for
11 directors to attend meetings; but, you know, you
12 could miss a meeting here or there.

13 Q. Sure. But since you don't have any
14 specific recollection of what happened that day,
15 then I'd have to depose your two colleagues to
16 determine what they remember happening at this
17 meeting on September 11th.

18 MS. SHIELDS: Objection. It's not an
19 appropriate question for this witness.

20 THE WITNESS: That's your -- whatever
21 your strategy is. I don't know the answer.

1 BY MR. COYLE:

2 Q. Just so I understand. You don't have any
3 specific recollection of discussing the Omaha site
4 at this meeting of September 11th, 2002?

5 A. As I said before a couple of times, I do
6 remember that the management team was looking at a
7 site in Omaha; but I do not have a specific
8 recollection of being at that meeting. I may have
9 been there. I don't know; as I've told you like a
10 couple times already today.

11 Q. But you don't have any specific
12 recollection of what the management team
13 specifically told you about this Omaha site?

14 MS. SHIELDS: Other than what she's
15 already testified to?

16 MR. COYLE: Yeah; I'm just asking her
17 what she recalls.

18 BY MR. COYLE:

19 Q. You said they were looking at an Omaha
20 site. Do you have any other recollection of what
21 was discussed or what you were told on September
22 11th, 2002?

23 Page 160

1 A. Again, I've told you before. You keep
2 trying to put words in my mouth. I told you I don't
3 have specific recollection of being at that meeting
4 on September 11th. I could have been there. I may
5 not have been.

6 But what I've said before is that I did
7 know that they were looking at Omaha, and that's it.
8 I knew they were looking at a site in Omaha, and
9 that's it.

10 Q. You don't have any other specific
11 recollection of what was discussed?

12 MS. SHIELDS: Objection; assumes facts
13 not in evidence.

14 MR. COYLE: I'm just asking --
15 THE WITNESS: I also really think I've
16 answered the question.

17 BY MR. COYLE:

18 Q. Okay. So you don't have any recollection
19 of seeing any documents or any pictures or any
20 schematics or any maps?

21 A. I have no recollection of seeing any
22 supportive materials about a site in Omaha.

23 Page 161

1 The one thing is I do recall knowing that
 2 RED was a developer for Omaha, but that's it.
 3 **Q. So when -- when you have these -- these**
 4 **meetings, other than one of the managers saying**
 5 **we're looking at a site in Omaha, it wouldn't be**
 6 **unusual for you not to have any information?**

7
 8 MS. SHIELDS: Objection. That's
 9 argumentative.

10 THE WITNESS: You need to be careful
 11 about your classification of sites and
 12 process. That's, you know, at that time,
 13 Omaha was classified in overview of 2004
 14 site.

15 They might just be talking about it
 16 for a minute. But that's all speculation.
 17 I can't --

18 BY MR. COYLE:

19 **Q. I'm just trying --**

20 A. I've answered your question.

21 **Q. I'm just trying to --**

22 A. I've answered your question.

23 **Q. You're -- listen, you're the person that**

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1 **was designated by Boston Ventures, and if you're**
 2 **telling me -- I'm trying to figure out if you were**
 3 **shown any schematics, drawings, anything.**

4 **And I understand from you that you don't**
 5 **recall seeing such things.**

6 A. That's my answer to you.

7 **Q. Okay. Now, between September 11, 2002 and**
 8 **the day Tom Stephenson said to you we're no longer**
 9 **looking at Omaha, did you have a single**
 10 **communication with anybody associated with Rave**
 11 **about the site in Omaha?**

12 A. As I said before, I don't recall if it was
 13 the September 2002 meeting or a separate discussion
 14 with Tom when I first knew about the Omaha site,
 15 okay, as a starter.

16 But as I sit here today, I don't recall
 17 any additional conversations between that date, or
 18 that time, and when, ultimately, I learned that we
 19 were no longer pursuing Omaha as an opportunity.

20 **Q. Okay. So just so -- so you don't recall a**
 21 **single communication with anybody from Rave about**
 22 **the Omaha site after you were told about it on**
 23 **either September 11, 2002 -- or before, as you said,**
 24 **by Mr. Stephenson --**

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1 A. Or around.

2 **Q. Okay.**

3 A. On or around.

4 **Q. I understand. That's the first time you**
 5 **were told about it.**

6 **It's your testimony that you had no**
 7 **discussions with anybody from Rave about that until**
 8 **Mr. Stephenson told you they were no longer looking**
 9 **at that opportunity?**

10 A. As I said before, as I sit here today, I
 11 have no recollection of any other conversations
 12 regarding Omaha until I ultimately found out that we
 13 had passed on the opportunity.

14 **Q. Okay. And is it -- is it your testimony**
 15 **that -- that the management team has the power to**
 16 **pass on any particular site, once it's on an agenda,**
 17 **on their own?**

18
 19 MS. SHIELDS: Objection; vague and
 20 ambiguous.

21 MS. MCCREARY: Objection; calls for
 22 speculation and assumes facts not in
 23 evidence. It also lacks of foundation.

24 THE WITNESS: The management team at

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1 Rave has the authority to review
 2 development opportunities and determine
 3 whether or not they believe they would meet
 4 the criteria for an approved site. That's
 5 within their jurisdiction.

6
 7 BY MR. COYLE:

8 **Q. Okay. And on September 11th, they**
 9 **reported at that at a board of managers meeting?**

10
 11 MS. MCCREARY: Object to the form.

12 Assumes --

13
 14 BY MR. COYLE:

15 **Q. It's on the agenda.**

16
 17 MS. MCCREARY: Assumes facts not in
 18 evidence; calls for speculation; misstates
 19 this witness's testimony.

20
 21 BY MR. COYLE:

22 **Q. Go ahead. I mean, it's on the agenda;**
 23 **right?**

24 A. Let me see the agenda again. You have

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1 mine. Can I have it back, please?

2 Q. Sure.

3 A. Thanks.

4
5 MS. SHIELDS: Just for clarity
6 purposes, what is the "it" that you're
7 referring to?

8 MR. COYLE: About Omaha.

9 THE WITNESS: So could you restate
10 your question, then.

11 BY MR. COYLE:

12 Q. Well, my question is, is that you and I
13 can agree that on Exhibit Number 2 --

14 A. I'd like that, please.

15 Q. I just want to -- I'm trying to refresh my
16 recollection.

17 A. You have your own.

18 Q. Okay. On Exhibit Number 2, Omaha appears
19 on there; correct?

20 A. Yes; Omaha is on Exhibit Number 2.

21 Q. Okay. Does senior management at Rave have
22 the opportunity to then pass on a potential site on
23 their own authority?

24 Page 166

1 A. The management team of Rave understands
2 very clearly what are the types of sites that will
3 ultimately get approved or not approved based upon
4 certain characteristics of the cinemas; and if they
5 determine that a site does not meet the standards,
6 they can decide not to go forward with that site.

7 That's why we employ them and give them
8 that job. I mean --

9 Q. Okay. So after -- so even after if it's
10 on an agenda as a potential site, what you're
11 telling me is, is Stephenson had the authority just
12 to pass on the site and report to you that they're
13 no longer looking at Omaha?

14
15 MS. MCCREARY: Object to the form.
16 It's argumentative.

17 MS. SHIELDS: Objection. Same
18 objection.

19 MS. MCCREARY: Assumes facts not in
20 evidence.

21 THE WITNESS: Tom Stephenson is the
22 chief executive of the company. He can
23 make determinations about the real estate
24 development pipeline.

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1 That's what we ask him to do in his
2 role.

3
4 BY MR. COYLE:

5 Q. And -- and I -- and there are a number of
6 factors, and any one of those factors that you look
7 at as a potential site could be the basis for
8 Mr. Stephenson to do that -- to make the decision
9 not to pursue an opportunity.

10

11 MS. SHIELDS: Objection; calls for
12 speculation.

13 THE WITNESS: I think you'd have to
14 ask Tom Stephenson that question as to why
15 he decides one characteristic may be more
16 important than another characteristic.

17 We've worked together for a very long
18 time. He understands the kinds of
19 opportunities that the Board will find
20 attractive and not. And it's his job to
21 assess each opportunity and bring it up to
22 the Board that, you know, meet certain
23 benchmarks.

24

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1 BY MR. COYLE:

2 Q. Okay. Well, let's talk about those
3 benchmarks.

4 First of all, is competition one of the
5 benchmarks?

6 A. As I said earlier today, I listed out a
7 bunch of benchmarks. It's a very complicated
8 process. Competition, current and potential, is one
9 thing that we look at.

10 Q. Okay. So when you say competition,
11 current and potential, isn't there also criteria as
12 to how close your complex can be to another
13 multiplex theater?

14

15 MS. SHIELDS: Objection; calls for
16 speculation.

17 MS. MCCREARY: Objection to
18 characterization.

19 THE WITNESS: As I said earlier today,
20 every situation is a little different.

21 Certain market densities enable
22 cinemas to be closer to them -- to each
23 other than others.

24 But, certainly, we do look at how far

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away a cinema might be and incorporate population density into that equation to determine what our area is.

BY MR. COYLE:

Q. I understand.

A. But it is -- it is a very complicated discussion, and no one market is the same.

Q. Do you have these benchmarks listed some place?

A. As I sit here today, I don't know if we have benchmarks set out. I just don't know.

Q. Well, who would know? Is it -- is it your testimony -- let me back up.

Is it your testimony that Boston Ventures does not have a set list of benchmarks or a written criteria that need to be complied with in order to consider a potential site?

A. That's not what I said. But what I said was that as I sit here today, I don't know if we do.

I don't believe that's responsive to what was requested of me today.

Q. Okay. And here's the question: Does Boston Ventures have a written set of criteria for

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I've set out earlier today certain items that I think are included in that list. There may be others.

But what I said is I don't know, as I sit here today, whether or not there's a written list. It is more likely that a communication, a discussion about the important characteristics of a deal before we would approve its evolution.

I don't know if there's a specific list, though.

BY MR. COYLE:

Q. Okay. Is that -- who would know?

A. I would probably be the person that would know. I would -- it's -- it's just a research item.

Q. But as to -- but you didn't look to see whether such criteria exists between Boston Ventures and Rave?

MS. SHIELDS: Objection. The question is beyond the scope of the subpoena. The witness has answered the question. It's badgering.

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benchmarks that need to be followed?

A. I --

MS. SHIELDS: Objection. It's beyond the scope of the subpoena. The witness has asked -- answered the question previously.

MR. COYLE: Well, I disagree with that.

MS. SHIELDS: You can answer.

BY MR. COYLE:

Q. Let me form my question. Does Boston Ventures have a written set of criteria involving items that must be complied with to consider a potential site?

MS. SHIELDS: Same objection. It's beyond the scope of the subpoena. It's been asked and answered.

THE WITNESS: We've been working with this company for a long time, and we have set out certain items which we view as important against -- it's a comprehensive list.

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MR. COYLE: I don't think it is.

MS. SHIELDS: This is where we disagree.

BY MR. COYLE:

Q. Well, so you're -- you don't -- you're not saying that such a list doesn't exist. You just didn't go look for one.

MS. SHIELDS: Objection. That misstates the witness's prior testimony.

THE WITNESS: What I'm saying is I don't know if a detailed list itemizing out all the requirements for a Board approval exists or not. I just don't know.

And it had nothing to do with the Omaha requirement. So --

MR. COYLE: I guess I -- I think that it's clearly covered under the subpoena, but let's move on.

MS. SHIELDS: Point 5 is -- you understand the situation. Point 5, we're objecting to. Okay.

MR. COYLE: Well, I learned that this

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1 morning.

2 MS. SHIELDS: With all due respect,
3 Mr. Coyle, you've known that for nearly a
4 year.

5 MR. COYLE: No, I haven't. I have no
6 such thing, Counsel. All's I can believe
7 is what's said in the letter that was sent
8 to me.

9 BY MR. COYLE:

10 Q. Let's go back. So then at this -- I just
11 want to make sure that I'm getting down all the
12 conversations. You heard about the Omaha matter,
13 and then you heard from Stephenson some time later
14 that the Omaha deal was off.

15 And it's your testimony that you didn't
16 have any communications with any representative of
17 Rave about this potential investment between those
18 two periods of time?

19 MS. SHIELDS: Objection; asked and
20 answered.

21 MS. MCCREARY: Objection; asked and
22 answered, misstates her testimony.

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1 THE WITNESS: I've already answered
2 that question earlier.

3 BY MR. COYLE:

4 Q. Please answer it again.

5 MS. SHIELDS: Same objection.

6 THE WITNESS: What I said is that I
7 don't recall, as I sit here today, any
8 communication between the first time I
9 heard about Omaha and then ultimately
10 learning that the deal had fallen out -- we
11 weren't pursuing it.

12 I just don't recall any communication
13 then.

14 BY MR. COYLE:

15 Q. Okay. Would there have been anybody else
16 at Boston Ventures that would have been in such
17 communication?

18 MS. SHIELDS: Objection; calls for
19 speculation.

Page 175

1 BY MR. COYLE:

2 Q. In other words, was there a person, an
3 underling, or one of your associates that would have
4 had such communications?

5 I understand what you've told me about
6 your own communications. Would there have been
7 others at Boston Ventures that would have been
8 communicating with the people at Rave about the
9 engagement in Omaha?

10 MS. SHIELDS: Objection; calls for
11 speculation.

12 THE WITNESS: I'd be speculating on
13 that. I can say that I think that I am the
14 best person to answer that question. But
15 I'd be speculating if somebody else had a
16 conversation. I just don't know.

17 BY MR. COYLE:

18 Q. Okay. Well, that -- you've told me about
19 these quarterly meetings, and we're looking at
20 Exhibit 2 as a September quarterly meeting agenda.
21 It's my understanding that it was March
22 22nd or 23rd of 2003 when Mr. Stephenson or folks at

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1 Rave told the people at RED that the deal was dead.
2 Where's the agenda from the next quarterly
3 meeting?

4 MS. MCCREARY: Objection to form.

5 MS. SHIELDS: Objection. Are you
6 testifying? I mean --

7 MR. COYLE: Well, no. I want to know
8 if Omaha is still pending, why hasn't the
9 next quarterly meeting agenda been
10 produced?

11 MS. SHIELDS: The next quarterly
12 meeting agenda hasn't been produced because
13 it doesn't mention Omaha. It's not
14 responsive to the subpoena.

15 MR. COYLE: Well, the witness
16 testified that it was part of an 2004
17 overview. I mean, is it -- are you saying
18 that it has to say the word Omaha in it?

19 MS. SHIELDS: The subpoena that you
20 sent asked for documents -- a variety of
21 categories of documents relating to the
22 Omaha project. We've produced all such
23 documents.

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1 If there are -- if there are other
 2 board of managers meeting agendas for other
 3 periods of time, they didn't mention Omaha.

4 MR. COYLE: So --

5 MS. SHIELDS: We've complied with our
 6 obligations under the subpoena.

7 BY MR. COYLE:

8 Q. So the -- let me ask Ms. Granville-Smith.

9 Is -- I take it there were quarterly meetings after
 10 September of 2002?

11 A. Yes, there are -- there have been
 12 quarterly meetings since that date.

13 Q. And I know I asked you this earlier, but
 14 Is it somebody from Rave that puts together this
 15 agenda?

16 A. I answered you earlier about this. I'm
 17 not sure who it is at Rave, but Rave puts this
 18 together. I typically have had questions; I'll say,
 19 Hey, I'd like this on the agenda.

20 Q. Okay. So assuming that since no other
 21 documents have been produced, presumably, Rave
 22 didn't put this on their next quarterly meeting
 23 agenda -- the Omaha engagement?

24 Page 178

1 heard about Omaha to when I later learned
 2 that it had been passed upon. I have no
 3 recollection.

4 Number 2, I reviewed our files for any
 5 documentation related to Omaha, and this is
 6 what I found.

7 I can't tell you if it was on another
 8 agenda, but this is what I found. And
 9 that's what's been produced. End of story.

10 BY MR. COYLE:

11 Q. Okay.

12 A. Okay.

13 Q. So -- so, potentially, there is a board of
 14 managers meeting agenda after September 11, 2002 and
 15 prior to March 31 of 2003 that could mention Omaha;
 16 you just didn't find them.

17 MS. SHIELDS: Objection. That
 18 misstates the witness's prior testimony.
 19 We've been over this.

20 MR. COYLE: I don't think so, Kathy.
 21 That's what she just said.

22 MS. SHIELDS: I disagree with you.

23 Page 180

1 MS. MCCREARY: Object to the form of
 2 the question.

3 MS. SHIELDS: Objection; calls for
 4 speculation.

5 BY MR. COYLE:

6 Q. I mean, did you look at the next quarterly
 7 agenda meeting after September of 2002?

8 A. I reviewed all of our files to find
 9 documents that included anything to do with Omaha,
 10 and I produced what was found in our documentation.

11 Q. Okay. So your testimony, for the record,
 12 is that there's no mention of a potential Rave
 13 investment in the Omaha market in any quarterly
 14 meeting after September 11, 2002 and prior to March
 15 31 of 2003?

16 MS. MCCREARY: Object to the form.

17 The question misstates the witness's
 18 testimony.

19 THE WITNESS: That's not what I said.
 20 What I said was two-prong.

21 First is I have no recollection of any
 22 conversations from the time which I first

1 Object to the form of the question. It's
 2 asked and answered.

3 THE WITNESS: I don't know if Omaha
 4 was on any subsequent agendas. I have no
 5 recollection of any subsequent discussion
 6 of Omaha.

7 BY MR. COYLE:

8 Q. I didn't get it from Rave either. So
 9 don't feel bad.

10 Number 4: Produce all documents
 11 relating --

12 A. Could I take a recess for a second here?

13 Q. Yeah; but I'm about done.

14 A. Okay; because I wanted to push something
 15 off, if necessary.

16 Q. If you need to make a call, why don't we
 17 take a recess because I'm going to run through this,
 18 and then I'm going to adjourn.

19 A. Okay. Let me just tell my colleague that
 20 I'm going to be a little late.

21 Q. That's fine.

22 (Whereupon, a break was taken in the

23 Page 181

24 Page 179

1 proceedings.)
 2
 3 BY MR. COYLE:

4 **Q. Ms. Granville-Smith, we took a short
recess. Are you ready to proceed?**

5 A. Yes, I am.

6 **Q. Directing your attention back to Exhibit
Number 1, Exhibit A, Number 4.**

7 **You did the same search looking to produce
all documents relating or referring to Rave Reviews
Cinemas' decision not to build and/or operate a
theater in Omaha, Nebraska or the greater Omaha
area.**

8 **You conducted the same search where you
sent the e-mail out to your colleagues and asked
them to look and --**

9 A. I would like to refer to my previous
explanation of how I conducted myself.

10 But I followed the same procedures as I
have stated that I have done already.

11 **Q. Okay. Now, Item Number 5: Produce all
documents relating to Boston Ventures Management,
Inc.'s financing of or investment in Rave Reviews
Cinemas.**

12 Page 182

1 notice, and she's the corporate
2 representative that's been produced; isn't
3 that correct?

4 MS. SHIELDS: That is correct. But in
5 -- making a determination of which
6 documents are responsive to a subpoena
7 involves a legal judgment that her lawyers
8 would make in assistance with Boston
9 Ventures.

10 BY MR. COYLE:

11 **Q. Okay. And I -- I understand that you
haven't produced them, but you do have written
documents that set forth the relationship between
Boston Ventures and Rave Cinemas; isn't that
correct?**

12 MS. SHIELDS: I'll permit
13 Ms. Granville-Smith to answer that question
14 if she understands it.

15 THE WITNESS: I'll answer it as this:
16 Yes, we have documentation that governs our
17 investment in the company.

18 Page 184

1 **I -- I take it that there are a number of
documents in the possession of Boston Ventures in
response to Number 5.**

2 MS. SHIELDS: MR. Coyle, this is a
3 topic to which Boston Ventures has
4 objected. The number of documents
5 potentially covered by that broad language
6 is voluminous.

7 Ms. Granville-Smith is not produced to
8 respond on that topic, and I object to the
9 question on those grounds.

10 BY MR. COYLE:

11 **Q. Okay. I just want to -- let me just
confirm with her. There -- first of all, there are
12 documents responsive to Number 5.**

13 MS. SHIELDS: That calls for a legal
14 conclusion.

15 Ms. Granville-Smith isn't -- isn't the
16 right person to be making that
17 determination.

18 MR. COYLE: Well, it's a 30(b)(6)

13 BY MR. COYLE:

14 **Q. Okay. And your relationship with the
company?**

15 A. That's a broad statement. So I'd like to
16 keep it narrowed to the fact that we have
17 documentation that governs our investment in the
18 company.

19 **Q. Okay. And I take it that there is
documentation regarding the ability of Boston
20 Ventures to elect the board of managers at Rave
21 Reviews Cinema?**

22 MS. SHIELDS: Objection; calls for a
23 legal conclusion. Calls for speculation.

24 THE WITNESS: And as I said before
earlier today, I would have to review those
documents to make myself certain as to what
our governance is on that.

25 BY MR. COYLE:

26 **Q. Well, according to Exhibit Number 5, the
Andersen Financial Statements -- and you don't need
27 to refer to them -- it does say that there is --
28 that voting rights, ability to elect the board of**

29 Page 185

1 managers, preferences over others invested capital.
 2 It appears that there are a number of
 3 agreements between Boston Ventures and Rave about
 4 these matters; isn't that a fair statement?

5 MS. SHIELDS: What page of Exhibit 5
 6 are you referring to?

7 MR. COYLE: Page 10 of Exhibit Number
 8 5.

9 THE WITNESS: Page 10 of Exhibit 5 is
 10 Arthur Andersen's interpretation of our
 11 documents as of that time.

12 I really don't want that to be my
 13 statement until I've done my own review of
 14 the documentation.

15 BY MR. COYLE:

16 Q. I understand, Ms. Granville-Smith; and for
 17 purposes of this deposition, I am just simply trying
 18 to confirm with you that there are documents that
 19 are responsive to Item Number 5 on Exhibit Number A
 20 that have not been produced.

21 MS. SHIELDS: And I, again, object to

Page 186

1 that question because it calls for a legal
 2 conclusion, and Ms. Granville-Smith has not
 3 been designated to testify on that topic.

4 MR. COYLE: Well, I mean, I'm not
 5 asking for a legal conclusion.

6 MS. SHIELDS: You're --

7 BY MR. COYLE:

8 Q. There are written documents, are there
 9 not, that set forth the relationship between these
 10 two companies?

11 A. I'd appreciate it if you didn't put --
 12 change the terminology that I'm using. I'm being
 13 very specific in my terms. I think that's
 14 important.

15 The way I've responded to you is that
 16 there are written documents that govern our
 17 investment in the company.

18 Q. Okay. And detail aspects of your
 19 relationship.

20 MS. SHIELDS: Same objection.

21 THE WITNESS: I don't fully understand
 22 what you mean by the term relationship.

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1 We have the same kinds of documents
 2 that any company would have.

3 BY MR. COYLE:

4 Q. Okay. But none of those have been
 5 produced today.

6 A. No, they have not.

7 MS. SHIELDS: Same objection.

8 BY MR. COYLE:

9 Q. Okay. Number 6: Produce all documents,
 10 including correspondence, between Rave Reviews
 11 Cinemas, its agents or employees, and Boston
 12 Ventures Management.

13 You don't have any letters involving the
 14 lawsuit or communications of any kind? No e-mails;
 15 anything telling you that there's a lawsuit on file?

16 A. I know there's a lawsuit on file; but I
 17 don't have any communications or e-mails regarding
 18 that lawsuit when I did my review of the file.

19 Q. Okay. So you don't have any e-mails or
 20 any type of written documents that summarize or talk
 21 about the lawsuit?

22 Page 188

1 A. I reviewed my files and found nothing
 2 regarding Omaha other than what has been produced.

3 Q. Okay. How many conversations have you had
 4 with the attorneys representing Rave?

5 A. As I sit here today, I believe that I've
 6 had two conversations with Rave's counsel.

7 Q. Is that Ms. McCreary and Ms. Donnelly?

8 A. I know that I've spoken with Ms. McCreary
 9 on two occasions, and I believe I've only met
 10 Ms. Donnelly. I have not had excessive
 11 conversations with her.

12 Q. Okay. When was the last meeting you had
 13 with Ms. McCreary?

14 A. I met Ms. McCreary yesterday.

15 Q. Okay. And did that take place here at --
 16 at your legal counsel's office?

17 A. Yes, it did.

18 Q. And how long did the meeting last?

19 A. My meeting with Ms. McCreary lasted
 20 approximately 45 minutes.

21 Q. Okay. What was discussed?

22 MS. SHIELDS: Objection. I would
 23 caution the witness not to reveal any

24 Page 189

1 communications that were made at the
2 request of her counsel or in the presence
3 of her counsel.

4 MR. COYLE: Well, what I want to know
5 is --

6 MS. SHIELDS: Those materials are
7 protected by the attorney/client privilege.

8 MR. COYLE: I don't want to get
9 anything that's privileged between you and
10 your lawyer. I just want to know what you
11 talked about with Lynn McCreary.

12 MS. SHIELDS: And to the extent -- you
13 can answer that question to the extent any
14 communication you had with Ms. McCreary was
15 not requested by your counsel or in the
16 presence of your counsel or concerning your
17 counsel's advice relating to this
18 deposition.

19 MR. COYLE: Well, I don't -- if -- if
20 the witness was -- was made available to
21 counsel for Rave, I believe I have the
22 right to inquire about everything that was
23 discussed; and whether you're there or not
24 doesn't make any difference.

Page 190

1 MS. SHIELDS: I don't think I agree
2 with you on that -- on those grounds. The
3 conversation --

4 MR. COYLE: Well, let's see how this
5 goes.

6 BY MR. COYLE:

7 Q. **What did you -- did -- tell me what she
9 told you.**

10 MS. SHIELDS: If you can answer the
11 question given those parameters, do.

12 BY MR. COYLE:

13 Q. **Tell me what you talked about.**

14 A. It was a very general conversation, giving
15 me some sense of how today might proceed, some -- I
16 got the sense that she was assessing me, as well;
17 and just a general getting to know me. Maybe some
18 general terms about the case, but really nothing
19 specific.

20 Q. **Okay. But did she ask you -- did she talk
21 to you about questions that would be asked of you in
22 the deposition?**

23 Page 191

1 MS. SHIELDS: Same objection -- or
2 same instruction.

3 If you can answer that question
4 without revealing communications you had at
5 the instruction of counsel or to assist
6 counsel in preparing you for your
7 deposition, you can answer.

8 THE WITNESS: I don't believe so. I
9 think all my conversations of that nature
10 were in the presence of my lawyer or with
11 my own counsel.

12 BY MR. COYLE:

13 Q. **Well, you had a conversation with
14 Ms. McCreary about questions that were going to be
15 asked of you today; isn't that true?**

16 MS. SHIELDS: Objection; misstates the
17 witness's prior testimony.

18 THE WITNESS: It does misstate. I
19 don't -- I don't recall that.

20 BY MR. COYLE:

21 Q. **What did you talk about?**

22 Page 192

1 A. As I said before, it was getting to know
2 me. I believe she's trying to see how I would do in
3 a deposition.

4 She wanted to know if I had been in a
5 deposition before; gave me some sense of you,
6 Mr. Coyle, and your style. And it was that. And
7 all our conversations, really, were directed by my
8 attorney.

9 Q. **Did she have a conversation with you about
10 questions that were going to be asked of you today?**

11 MS. SHIELDS: Is she Ms. McCreary?

12 MR. COYLE: Yes.

13 MS. SHIELDS: Same instruction.

14 THE WITNESS: Actually, I think I
15 already answered that. I don't recall that
16 specifically.

17 What I recall from the conversation is
18 as I had set it out a couple minutes ago.

19 BY MR. COYLE:

20 Q. **Okay. Did you look at any documents?**

21 MS. SHIELDS: And I want to instruct

22 Page 193

1 the witness that you can answer that
 2 question in the context of your discussions
 3 with Ms. McCreary.

4 THE WITNESS: The only documents that
 5 I recall, as I sit here today, that I
 6 reviewed were my documents that I produced.

7 BY MR. COYLE:

8 **Q. Did you look at any other documents?**

9 A. I don't recall looking at any other
 10 document except for the subpoena rider. I did look
 11 at that.

12 **Q. Did you look at any documents to prepare
 13 for the deposition -- any other documents?**

14 A. No, I did not.

15 **Q. Did your counsel show you any other
 16 documents?**

17 MS. MCCREARY: Object to the form.

18 Mike, it's just because I didn't hear
 19 you. Did you say did counsel or did your
 20 counsel?

21 MR. COYLE: I'm talking about Kathleen
 22 now.

23 Page 194

1 MS. MCCREARY: Okay.

2 MS. SHIELDS: And I would object on
 3 privileged grounds.

4 MR. COYLE: I understand. But I think
 5 I have the right to inquire if she looked
 6 at any documents in preparation for her
 7 deposition.

8 MS. SHIELDS: You can answer that
 9 question yes or no.

10 THE WITNESS: No; I did not look at
 11 any other documents other than the three I
 12 have stated.

13 BY MR. COYLE:

14 **Q. Okay. The meeting lasted about 45
 15 minutes?**

16 A. She was in the room while I was there for
 17 about 45 minutes, yes.

18 **Q. Okay. When was the other meeting you had?**

19 A. It was a telephone call a long time ago.
 20 I think probably at the beginning of this process.

21 **Q. Okay. And was -- was Kathleen on the
 22 phone -- your counsel here?**

23 A. No, she was not.

24 Page 195

1 **Q. Any other representative of the law firm?**

2 A. I can't recall whether or not my counsel
 3 was on that call. I might --

4 **Q. Okay.**

5 A. -- inquire. I don't remember.

6 **Q. What did you talk about?**

7 A. My recollection at that time was that I
 8 was requesting information as a member of the Board
 9 to understand what this lawsuit was about.

10 **Q. So you called her?**

11 A. My recollection is that I did; yes, I
 12 called her.

13 **Q. Okay. And did she describe to you what
 14 her view of the lawsuit was about?**

15 A. Yeah; I can't recall that conversation.
 16 It was a long time ago.

17 **Q. How did you find out that there was a
 18 lawsuit?**

19 A. I don't remember.

20 **Q. Why would you be curious about a lawsuit?**

21 A. Well, I mean, I'm on the Board of
 22 Directors of the company. There's a lawsuit. I
 23 should know about it, and I would inquire.

24 **Q. Okay. How long did that conversation**

Page 196

1 **last?**

2 A. I can not remember.

3 **Q. Anybody else on the phone besides the two
 4 of you?**

5 A. As I said before, I can't recall whether
 6 or not anyone else was on that phone or not.

7 **Q. Okay. Have you had any other meetings
 8 relative to this lawsuit other than with your own
 9 legal counsel?**

10 **Have you ever met with Mr. Stephenson or
 11 Mr. Painter to talk about the lawsuit?**

12 A. I have told -- I have told Mr. Stephenson
 13 and other members of the Rave management team that I
 14 was being deposed, but I've not discussed it with
 15 them at all.

16 **Q. Let's go back to Exhibit Number 1. Item
 17 Number 7: Are you the person who has the most
 18 knowledge regarding Boston Ventures' April 2002 site
 19 visit to Omaha?**

20 **And I understand it's your testimony that
 21 nobody from Boston Ventures made such a visit.**

22
 23 MS. SHIELDS: I'm going to object to
 24 the question on the grounds that she has

Page 197

1 been so designated, and that's what RED is
 2 entitled to under the Federal Rules of
 3 Civil Procedure. You can answer the
 4 question.

5 MS. MCCREARY: Object to the extent it
 6 assumes facts not in evidence. This
 7 witness has testified that there was no
 8 such visit.

9
 10 BY MR. COYLE:

11 **Q. Are you the person to have most -- did you
 12 do an investigation as to anybody that went out
 13 there?**

14 A. Based upon my position at Boston Ventures,
 15 if anyone went to Omaha, I would be the best person
 16 to know if they went.

17 And my statement is that nobody, to the
 18 best of my knowledge, went to Omaha.

19 **Q. Is there anybody that works for you by the
 20 name of Jennifer?**

21 A. We have members of our secretarial staff
 22 by the name of Jennifer.

23 **Q. Okay. All right. So, to the best of your
 24 knowledge, nobody went from Boston Ventures to**

Page 198

1 **Omaha.**

2 **And then Number 10 asks the same questions
 3 about Rave Reviews Cinemas' communications to Boston
 4 Ventures regarding the decision not to build.**

5 **Okay. Now, you've been produced for nine
 6 and ten; correct?**

7 A. Yes.

8 **Q. But did you put your team together and --
 9 and conduct an investigation as to who might have
 10 had conversations with Mr. Stephenson or Mr. Painter
 11 or any representative of Rave about the decision not
 12 to move forward in Omaha?**

13
 14 MS. SHIELDS: Objection. It misstates
 15 the witness's prior testimony.

16 It also suggests that there are
 17 obligations beyond those set forth in the
 18 Federal Rules of Civil Procedure.

19 MR. COYLE: Well, I understand.

20 You've produced a witness who you say has
 21 the most knowledge regarding
 22 communications, and she's told me about her
 23 communications.

24 I want to know what she did to

Page 200

1 **Omaha?**

2 A. To the best of my knowledge, nobody from
 3 Boston Ventures went to Omaha to look at this site.

4 **Q. And you are the individual that's been
 5 produced to have the most knowledge regarding the
 6 issues identified in Items 1 through 7 above?**

7
 8 MS. SHIELDS: Again, with respect to
 9 Items 5 -- or with respect to Item 5, we've
 10 objected, and we have not designated
 11 Ms. Granville-Smith to testify on that
 12 subject.

13 I've permitted you to ask some
 14 questions on that topic without waiving our
 15 objections to it.

16
 17 BY MR. COYLE:

18 **Q. Is that correct?**

19 A. I would be the person best able to discuss
 20 those items, with all the objections that Kathy
 21 has --

22 **Q. Now, nine and ten involve communications
 23 made by Rave to Boston Ventures regarding Rave's
 24 plans or intent to build or operate a theater in**

Page 199

1 determine whether other individuals at --
 2 at Boston Ventures had communications with
 3 Rave between September and March.

4 MS. SHIELDS: And you can inquire as
 5 to whether she believes that she is the
 6 person at Boston Ventures with the most
 7 knowledge of such communications.

8 MR. COYLE: Well, that's not really my
 9 question.

10
 11 BY MR. COYLE:

12 **Q. My question is: What did you do to -- did
 13 you investigate that?**

14
 15 MS. SHIELDS: And, again, I'm going to
 16 object on grounds that it suggests that
 17 there's an obligation beyond those set
 18 forth in the Federal Rules of Civil
 19 Procedure.

20 You can answer the question if you
 21 can.

22 THE WITNESS: As I said earlier today
 23 a couple times, what I did was went to
 24 every member of my team, notified them of

Page 201

1 the lawsuit, gave them this Exhibit A first
 2 -- when it first came out -- and then the
 3 subsequent one, maybe a month ago; and
 4 said, look, I need you to respond to all
 5 these items. Anything you have about
 6 Omaha, I need to get it.

7 And I felt, and still believe, that
 8 that is a comprehensive methodology.
 9

10 BY MR. COYLE:

11 Q. **I understand. But, specifically, did --**
 12 **did you have communications, meaning that there**
 13 **could have been people that talked to them?**
 14 **Did you have a specific request to your**
 15 **people who talked to Stephenson or Painter or any**
 16 **representative from Rave about the decision to build**
 17 **or not to build?**

18 **Did you -- did you do anything along that**
 19 **regards, specifically, in preparation for your**
 20 **deposition today?**

21 MS. SHIELDS: Same objection as
 22 before.

23 THE WITNESS: I don't recall if I

24 Page 202

1 MR. COYLE: Okay. I understand.
 2 That's it. That's all I have. Thank you.
 3
 4 (Whereupon, the deposition was
 5 concluded at 1:07 p.m.)
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 24 Page 204

1 specifically asked them did you have an
 2 oral communication on Omaha; and, if you
 3 did, you need to document it.

4 But I asked for all correspondence and
 5 information regarding to Omaha.

6 MR. COYLE: Okay. Counsel, I do
 7 disagree on Number 5. I think that we have
 8 a right to this information.

9 With that proviso, I'm going to
 10 adjourn the witness's deposition, and I'll
 11 just have to take it up -- if I got to file
 12 with the federal judge here, I think you
 13 had an obligation to produce those records.
 14 I know you disagree with that.

15 So I would like to leave it at
 16 adjourning it for now.

17 MS. SHIELDS: And I object, for the
 18 record, to your adjournment of the
 19 deposition. Boston Ventures has complied
 20 with all of its obligations under the
 21 subpoena and under the Federal Rules.

22 We've produced the witness and made
 23 her available. It's our position that the
 24 deposition is concluded.

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1 C E R T I F I C A T E
 2

3 Commonwealth of Massachusetts
 4 Norfolk, ss.

5 I, Dawn Mack-Boaden, a notary public in
 6 and for the Commonwealth of Massachusetts, do hereby
 7 certify that:

8 ELIZABETH GRANVILLE-SMITH, the witness
 9 whose testimony is hereinbefore set forth, was duly
 10 sworn by me, and that such testimony is a true and
 11 correct transcription of my stenographic notes taken
 12 in the forgoing matter, to the best of my knowledge,
 13 skill and ability.

14 I FURTHER CERTIFY that I am neither a
 15 relative nor employee of nor counsel for any of the
 16 parties, nor am I financially interested either
 17 directly or indirectly in the outcome of this
 18 action.

19 IN WITNESS WHEREOF, I have hereunto set my
 20 hand and Notarial Seal this 14th day of July, 2005.

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08:58:37 IN THE UNITED STATES DISTRICT COURT
08:58:37 FOR THE DISTRICT OF NEBRASKA

08:58:37

08:58:37 168th AND DODGE, L.P., ET AL.,)
08:58:37 ,)
08:58:37 Plaintiffs,)
08:58:37 ,)
08:58:37 vs. ,) No. 8:03CV171
08:58:37 ,)
08:58:37 RAVE REVIEWS CINEMAS, LLC.,)
08:58:37 ,)
08:58:37 Defendant.)
08:58:37

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08:58:37 VIDEOTAPED DEPOSITION OF SCOTT REHORN
08:58:37
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08:58:37 Phoenix, Arizona
08:58:37 July 19, 2005
08:58:37 9:02 a.m.

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16:49:25 17 A. Not to my knowledge that I memorialized it
 16:49:29 18 anywhere.

16:49:30 19 Q. Okay. What's your recollection of that
 16:49:34 20 conversation?

16:49:35 21 A. My recollection of the conversation was Bob
 16:49:37 22 and Tom called and said that we have bad news, that our
 16:49:48 23 deal was turned down by Boston Ventures and by Elizabeth
 16:49:54 24 whatever her name is, Smith, and Tom was apologetic and
 16:50:01 25 said that -- I said this was supposed to be a formality,

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16:50:07 1 and he said it was supposed to be a formality. And he
 16:50:11 2 then explained to me that they were presented a deal or
 16:50:21 3 did a deal, I don't know if it went to committee on that
 16:50:25 4 date or not, with Continental Properties in North
 16:50:28 5 Cincinnati, and because Continental had to -- because
 16:50:36 6 Continental was in competition with three other -- two
 16:50:40 7 other developers, they basically bought Rave Theaters and
 16:50:47 8 said we're going to give them a free deal, or I'm not
 16:50:52 9 exactly sure what the deal was, but Bob called Elizabeth
 16:51:01 10 a bean counter and said that she didn't understand the
 16:51:04 11 real estate transaction, she was just looking at the
 16:51:07 12 numbers, and her comment was:

16:51:09 13 Why would I approve a deal like this when
 16:51:11 14 there's other deals out there, such as this deal in North
 16:51:18 15 Cincinnati.

16:51:19 16 And they said:

16:51:21 17 You can thank your friend Mr. Zigler, because
 16:51:24 18 they know I know him. As a matter of fact, I was the one
 16:51:26 19 that introduced them to each other. And so when I did
 16:51:29 20 get off the phone, I called Mr. Zigler and thanked him